

IN THE CIRCUIT COURT  
OF THE ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

LOIS BICKNELL, Individually and as  
Special Administrator of the Estate  
of Hugh Bicknell, deceased,

Plaintiff,

vs.

92 L 140

OWENS-CORNING FIBERGLAS CORPORATION  
and ILLINOIS CENTRAL RAILROAD COMPANY,

Defendants.

RON THACKER,

Plaintiff,

vs.

92 L 62

OWENS-CORNING FIBERGLAS CORPORATION,

Defendant.

DELORES MCCLURE, Individually and as  
Special Administrator of the Estate  
of Robert McClure, deceased,

Plaintiff,

vs.

94 L 107

ILLINOIS CENTRAL RAILROAD COMPANY,  
OWENS-CORNING FIBERGLAS CORPORATION  
and OWENS-ILLINOIS, INC.,

Defendants.

NOVEMBER 26, 1996

1 REPORT OF PROCEEDINGS of a portion of the  
2 jury trial held in the above-entitled cause on the  
3 26th day of November, 1996, before THE HONORABLE  
4 W. CHARLES WITTE, Circuit Judge of the Eleventh  
5 Judicial Circuit, presiding in courtroom 4-B of  
6 the McLean County Law & Justice Center, in the  
7 City of Bloomington, County of McLean and State of  
8 Illinois.

9  
10 APPEARANCES:

11 JAMES WALKER and JAMES WYLDER,  
12 Bloomington, Illinois,  
Representing the Plaintiffs.

13 ANDREW CONSTANTINE, II,  
14 Cherry Hill, New Jersey,  
Representing Owens-Corning Fiberglas Corp.

15 JOHN L. MOREL,  
16 Bloomington, Illinois,  
Representing Owens-Corning Fiberglas Corp.

17 THOMAS R. PETERS,  
18 Belleville, Illinois,  
Representing Illinois Central Railroad Co.

19 JOSEPH O'HARA and MATTHEW FISCHER,  
20 Chicago, Illinois,  
Representing Owens-Illinois Inc.

21  
22  
23 Susan E. Geshwilm, CSR  
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1	INDEX	Pg.
2	<u>RICHARD E. GRIMMIE</u>	
3	Direct Examination .....	23
4	Cross Examination .....	76
5	Cross Examination .....	161
6	Redirect Examination .....	165
7	Recross Examination .....	169
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

1 November 26, 1996

2  
3 THE COURT: These are causes 92 L 140, Lois  
4 Bicknell, plaintiff, vs. Owens-Corning Fiberglas  
5 and Illinois Central Railroad; 92 L 162 entitled  
6 Wilma Thacker, plaintiff, vs. Owens-Corning  
7 Fiberglas Corporation, defendant; and 94 L 107,  
8 Delores McClure, plaintiff, vs. Illinois Central  
9 Railroad Company, Owens-Corning Fiberglas  
10 Corporation and Owens-Illinois Incorporated,  
11 defendants.

12 Causes come on for continued consolidated  
13 jury trial. The plaintiffs, all three are present  
14 personally and by counsel Mr. Walker and Mr.  
15 Wylder. The defendant Owens-Corning Fiberglas  
16 present by counsel, Mr. Andrew Constantine. The  
17 defendant Illinois Central Railroad by counsel  
18 Thomas Peters and representative Charles Garrett.  
19 The defendant Owens-Illinois by counsel Matthew  
20 Fischer.

21 Counsel ready to proceed?

22 MR. CONSTANTINE: Ready, Your Honor. I was  
23 trying to locate some documents last evening, I  
24 couldn't find them. I have found them, they are

1 OCF 600, 601, 602 and 603. I have given counsel  
2 copies this morning and I'm going to be seeking  
3 their admission.

4 THE COURT: All right. Plaintiff had a  
5 chance to look at them yet?

6 MR. WALKER: Plaintiffs are looking at them  
7 now and don't know their position yet, so we'll  
8 have to object until we are in a position to do  
9 differently.

10 THE COURT: All right. Record reflect that  
11 counsel Morel and O'Hara have also appeared. Mr.  
12 Fischer, you've got something?

13 MR. FISCHER: Your Honor, we have some  
14 documents as well, a redacted copy as requested of  
15 plaintiffs' exhibit 433 as well as a few medical  
16 records which -- I'm sorry, yes, defendant  
17 Owens-Illinois 433.

18 THE COURT: And some medical records?

19 MR. FISCHER: And some medical records. That  
20 is right.

21 THE COURT: Illinois Central have anything?

22 MR. PETERS: We get to my case Your Honor,  
23 all I'm going to do is read a stipulation and  
24 rest.

1 THE COURT: Okay. Will you need a hearing on  
2 your motion before that?

3 MR. PETERS: Yeah.

4 MR. FISCHER: One other point, Your Honor.  
5 We have a blow up we intend to use with Mr.  
6 Grimmie, it's a blow up of this photo that Mr.  
7 Grimmie will be authenticating and I haven't had a  
8 chance to show it to plaintiffs' counsel, so I  
9 will do that.

10 MR. O'HARA: Your Honor I think this is the  
11 first day I'm late, I apologize for being a little  
12 late --

13 THE COURT: Not concerned about it. Also  
14 need a copy of Dr. Barrett's reports, the one on  
15 Mr. McClure and the one on Mr. Bicknell.

16 Mr. O'Hara, Mr. Grimmie is here?

17 MR. WYLDER: Plaintiffs have some thoughts  
18 on the schedule but I suggest we defer all of that  
19 until we finish whatever is coming on today.

20 THE COURT: Well except before I let the jury  
21 go, we'll need to --

22 MR. WYLDER: Right, but I mean when it looks  
23 like all the evidence is in perhaps we send them  
24 back there for a little bit and then discuss it.

1 THE COURT: All right.

2 MR. O'HARA: He's here.

3 THE COURT: Mr. Constantine, I think you  
4 indicated you had four new exhibits, 600 through  
5 603. Are those to be used with Mr. Grimmie?

6 MR. CONSTANTINE: Perhaps. They don't have  
7 to be, but depending upon what he says they may  
8 be.

9 THE COURT: All right.

10 MR. CONSTANTINE: We are going to put him up  
11 first? Is that what we are going to do?

12 THE COURT: Well I will want to see if we  
13 conclude your case first, your case in chief  
14 first. Then I presume it may be dependent upon  
15 the plaintiffs' reactions on those three and we'll  
16 go to the Owens-Illinois case.

17 All right, Owens-Corning ready to present  
18 some additional exhibits? Is that what you wish  
19 to do?

20 MR. CONSTANTINE: Yeah, 600 through 603.

21 THE COURT: Mr. Walker?

22 MR. WALKER: Plaintiffs object to 600 on  
23 authentication and hearsay.

24 THE COURT: All right. Now I need to see

1 copies of these Mr. Constantine.

2 MR. CONSTANTINE: I have copies Your Honor.

3 THE COURT: Thank you sir. Record reflect  
4 he's handed me copies of those exhibits. Let's  
5 just do them one at a time. You said authenticity  
6 and hearsay on 600?

7 MR. WALKER: Yes.

8 THE COURT: Mr. Constantine?

9 MR. CONSTANTINE: As it is a -- like some of  
10 the medical records that we have seen Your Honor,  
11 it is a business record. It is a dust study dated  
12 May 11th, 1961. I think that qualifies that as an  
13 ancient document which I believe at least under  
14 the federal rules is self-authenticating. It is a  
15 business record and it is -- I would think --

16 THE COURT: A business record of  
17 Owens-Corning?

18 MR. CONSTANTINE: It is.

19 THE COURT: Any other comment on it?

20 MR. CONSTANTINE: No.

21 THE COURT: Mr. Walker, any comment?

22 MR. WALKER: Well, so far as I know, the  
23 statements of counsel are not sufficient evidence  
24 to lay a foundation for the admissibility of an



1 exhibit. We objected on the basis of authenticity  
2 and hearsay. There has been no evidence to show  
3 that it falls within the exception to hearsay rule  
4 and there has been no evidence of authenticity.

5 MR. CONSTANTINE: It's a business record  
6 under I think local rule 236.

7 THE COURT: Well generally there is someone  
8 that authenticates that when it is your own  
9 business record and says they're the custodian and  
10 this is a document kept in the regular course of  
11 business.

12 MR. CONSTANTINE: We do have a custodian of  
13 records. I can have an affidavit faxed to the  
14 court.

15 THE COURT: Well at this point, the objection  
16 will be sustained.

17 MR. CONSTANTINE: Well then Your Honor, I ask  
18 for leave to call the -- to call that person live.

19 THE COURT: All right. You can do that. The  
20 custodian?

21 MR. CONSTANTINE: I can do that sometime as  
22 soon as we can. Of course I won't be able to rest  
23 until they get here.

24 THE COURT: That is fine. Number 601?

1 MR. WALKER: Same objections.

2 MR. CONSTANTINE: That too Your Honor is a  
3 business record and an ancient document, it's  
4 dated January 24th, 1946. Your Honor can see it  
5 bears the Bates stamp number and it's again not  
6 being offered for the truth of the matter asserted  
7 in the letter but rather it goes to the state of  
8 mind of Owens-Corning inasmuch as it appears as  
9 though in 1946, January 24th, Owens-Corning was  
10 sent or I'm sorry -- actually there is a response.  
11 This letter is read in conjunction with OCF 602.

12 THE COURT: Okay, okay.

13 MR. CONSTANTINE: 602 which is dated just  
14 several days before January 18th, 1946 is a letter  
15 from the health department of the State of Ohio  
16 enclosing a copy of the legal requirements for the  
17 prevention and control of industrial public health  
18 hazards and a letter going back on January 24th  
19 which is, 601 acknowledges receipt of that  
20 document which is OCF 603. And the matters  
21 asserted in the letter are not offered for the  
22 truth of the matters asserted, but rather on the  
23 issue of receipt of the document which contains  
24 the threshold limit value for asbestos dust at

1 five million particles per cubic foot of air.

2 THE COURT: Is 603 the document that was  
3 attached to 602?

4 MR. CONSTANTINE: I think that 606 -- I think  
5 the answer to that is that it's not. And what was  
6 sent with 602 was a draft versions of 603 and 603  
7 which, you know, which it's a draft version of  
8 what later appeared in the law to be 603.

9 THE COURT: Well 602 doesn't seem to suggest  
10 it's a draft copy.

11 MR. CONSTANTINE: I mean that is just based  
12 upon my best recollection, Your Honor. It could  
13 very well be -- although I think there is an  
14 attachment to this letter -- well no I'm not  
15 offering it, the attachment is a draft version,  
16 but it has got my handwriting on it and some  
17 markings that I made, so I'm not even offering it.

18 THE COURT: All right. Plaintiff, response?  
19 Actually 601 and 602 go together?

20 MR. WALKER: Well if 602 is before the court,  
21 then we have a third objection. We object on  
22 authenticity, hearsay and incompleteness. The  
23 first paragraph says, enclosed is a copy and  
24 counsel has already indicated he's not tendering

1 the copy. If the Bates stamping numbers were put  
2 on there by Owens-Corning, then those numbers work  
3 against Owens-Corning because exhibit 601 has  
4 Bates stamp 161. Exhibit 602 has Bates stamp 162.  
5 But there is no 163 on the front of Owens-Corning  
6 exhibit 603 which would indicate that the -- that  
7 the printed document wasn't what was enclosed with  
8 the January 18th letter, most likely it was  
9 something else and it may be that Owens-Corning  
10 has already confessed that something else is  
11 different from 603 and therefore whatever it is  
12 that 602 is being offered to show notice of isn't  
13 in front of the jury if 601 and 602 were received  
14 into evidence.

15 So for all those reasons, we object to the  
16 admissibility of 601 and 602.

17 MR. CONSTANTINE: I have the attachments,  
18 Your Honor. 601 is -- the last four numbers are  
19 161. The last four numbers of 602 are 0162. I  
20 have in my hands the attachment 163, 164, 165,  
21 166, 167, 168, 169 and 170. Your Honor will see  
22 that on 170 there are some circle marks that I  
23 made, so in an effort not to delay things and  
24 offer something that had marks on it, I'm not

1 offering it for (inaudible). But for the purposes  
2 of establishing that this was indeed attached to  
3 the letter, I'm offering it to the court for an in  
4 camera review of exactly what was attached. And  
5 you'll see if you compare it with 603, Your Honor,  
6 it's a draft or what appears to be a draft version  
7 of what later became --

8 THE COURT: All right, at this point I will  
9 sustain the objections, give you an opportunity to  
10 call that person that you --

11 MR. CONSTANTINE: Just so I'm clear Your  
12 Honor, you're sustaining the objection on what  
13 grounds?

14 THE COURT: Um, on hearsay and at this point  
15 authenticity.

16 MR. CONSTANTINE: Could I just inquire of the  
17 court is how is it that the plaintiffs introduce  
18 medical records claiming them to be business  
19 records and authentic, and the court allows them  
20 in; but yet when Owens-Corning makes an offer of a  
21 document, an ancient document the same way, the  
22 court denies it? I'm just curious.

23 THE COURT: Well --

24 MR. WALKER: Well first of all I object to

1 the court having to defend itself --

2 THE COURT: The court is not going to --

3 MR. CONSTANTINE: Your Honor, the reason I  
4 ask the question is it is not an issue of the  
5 court defending itself and it's really not a  
6 personal matter. Counsel for Owens-Corning has  
7 identified the record and made motions for recusal  
8 based on bias and prejudice and based on the way  
9 the case has been handled. There is nothing  
10 personal about it, lawyer steps into a courtroom,  
11 calls it like he sees it. I say --

12 MR. WALKER: Well the problem is this lawyer  
13 can't see the truth --

14 THE COURT: Now counsel --

15 MR. WALKER: -- can't give the court one  
16 single example of when an objection was made to a  
17 medical record and the objection wasn't ruled upon  
18 the same way that these objections were ruled  
19 upon.

20 THE COURT: The Appellate Court will have the  
21 opportunity to review the court's rulings and can  
22 make whatever findings they perceive to be  
23 appropriate.

24 All right, are we ready for Mr. Grimmie?

1 MR. CONSTANTINE: Well, Your Honor, with  
2 respect to 603, could I venture forward to suggest  
3 perhaps that Your Honor could take judicial notice  
4 of the State of Ohio legal rules -- legal  
5 requirements for the prevention and control of  
6 industrial public health hazards published in  
7 document 603 dated 1946?

8 MR. WALKER: You won't have to do that  
9 because the plaintiffs don't object to 603.

10 THE COURT: All right. 603 will be admitted.  
11 Anything else? All right, ready for the  
12 jury?

13 MR. WALKER: Judge I wonder if we may not  
14 have passed the plate as far as 603 as far as any  
15 other party.

16 THE COURT: Any objection Illinois Central?

17 MR. PETERS: I don't have any objection Your  
18 Honor.

19 THE COURT: Owens-Illinois?

20 MR. O'HARA: No objection Your Honor.

21 MR. WALKER: Thank you Your Honor. Sorry I  
22 didn't bring it up before the jury came in.

23 THE COURT: That's all right.

24 All right, now we are ready for the jury.

1 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE  
2 PRESENCE OF THE JURY.)

3 THE COURT: All right, you may be seated.  
4 Record reflect the ladies and gentlemen of the  
5 jury have returned to the courtroom. Mr. O'Hara,  
6 do you wish to present some evidence on behalf of  
7 Owens-Illinois?

8 MR. O'HARA: Yes Your Honor, I do.

9 THE COURT: Call your first witness.

10 MR. O'HARA: Your Honor, Owens-Illinois  
11 exhibit 409 was previously admitted into evidence.

12 THE COURT: Yes, sir.

13 MR. O'HARA: With your permission, I would  
14 like to pass this exhibit to the jury.

15 THE COURT: You may.

16 MR. O'HARA: Your Honor, again with your  
17 permission I would like to read a portion of this  
18 to the jury.

19 THE COURT: Any objection? You may.

20 MR. O'HARA: Title of exhibit Owens-Illinois  
21 409 is "Pioneers in the Profession." And the  
22 title of the article is "Willis G. Hazard" and the  
23 article is by Paul D. Halley. The first paragraph  
24 in the first page of the article begins, "Willis,



1 Bill Gilken (phonetic) Hazard, son of Willis and  
2 Mary Hazard, was born in Westchester, Pennsylvania  
3 on April 27th, 1907."

4 In the second paragraph, in the second  
5 sentence, "From there, Bill entered Harvard  
6 University where he received his bachelor of arts  
7 degree in physics in 1929 and his master's in  
8 physics in 1930. He became an instructor at the  
9 Harvard School of Public Health working with  
10 notables Phillip Drinker and Theodore Hatch. With  
11 Drinker he assisted in development of the iron  
12 lung which was a major factor in the treatment of  
13 patients whose respiration was impaired by polio.  
14 With Hatch, Bill worked on evaluation and control  
15 of air quality matters, especially of inhalation  
16 of silicosis-producing dusts.

17 When Owens-Illinois Glass Company, OI, of  
18 Toledo, Ohio appealed to Harvard for assistance in  
19 solving a problem of silicosis in their  
20 operations, Bill Hazard was recommended to them.  
21 So OI proposed and Bill accepted and in 1934,  
22 moved to OI's home office in Toledo. His work at  
23 OI took him to that company's many operations  
24 across the United States to evaluate and control

1 environmental problems such as silicosis-producing  
2 dusts, radiant heat and noise.

3 His academic training in physics, ventilation  
4 and industrial hygiene type subjects, plus his  
5 experience at Harvard, made him uniquely qualified  
6 to handle those problems at OI."

7 In the second full paragraph on the column on  
8 the right, the second sentence, "They," and there  
9 is a reference to above to Mr. Hazard's family,  
10 "lived in Toledo except for four years during  
11 World War II when Bill joined the U.S. Public  
12 Health Service and moved east to serve as an  
13 officer assigned to New Jersey and New York City.  
14 At war's end he left the service with the rank of  
15 major and returned to OI in Toledo where he  
16 continued until retirement in 1972."

17 Then I would ask you to turn to the next page  
18 under "Accomplishments, Contributions and Honors."

19 Your Honor I'm not going to read all of this.

20 The first sentence is "Bill was a founding  
21 father of AIHA, president in 1961, and Cummings  
22 Memorial Awardee and lecturer in 1968." The first  
23 sentence of the next paragraph. "Bill was a  
24 founding member of the Konacide Club (phonetic)

1 (Greek for death to dust) which was a voluntary  
2 and informal group dedicated to control of dust  
3 exposures in the workplace."

4 And the last sentence of that paragraph, "He  
5 authored numerous articles in such publications as  
6 National Safety News, American Journal of Public  
7 Health, Journal of Industrial Hygiene and  
8 Toxicology and Occupational Hazards. He authored  
9 three sections of the Encyclopedia of  
10 Instrumentation for Industrial Hygiene and," I  
11 think it says "three chapters in National Safety  
12 Council publications on ventilation of local  
13 exhaust systems and heat stress."

14 Under "The Early Years." "I first got to  
15 know Bill when I was in my beginning years in  
16 industrial hygiene with the Bureau of Industrial  
17 Hygiene, West Virginia State Department of Health.  
18 OI had several plants in West Virginia.

19 At Bill's invitation I visited OI's plants  
20 with him and together we conducted evaluations of  
21 potential exposures at OI's operations. It was  
22 one of the best cooperative approaches by  
23 employers/government that I am aware of. The  
24 cooperation between Bill and myself continued

1 after I left government and entered industry in  
2 1953. In 1948 I convened a statewide  
3 organizational meeting to form an industrial  
4 hygiene section of the West Virginia Public Health  
5 Association. One of the speakers was Bill Hazard.  
6 Bill's talk was on health of glass workers. He  
7 discussed medical and engineering controls in the  
8 glass industry and told us that out of four glass  
9 plants -- and told us that one of four glass  
10 plants in the United States was in West Virginia.

11 Then Bill spoke of illnesses of workers  
12 generally. At that time there was very limited  
13 information available on medical and toxicological  
14 aspects of the workplace exposure to chemicals and  
15 other stresses (most attention at that time had  
16 been directed to exposures to silicosis producing  
17 dusts). Bill mentioned one approach being  
18 followed by his company which was to keep  
19 sickness, absentee records on all employees and  
20 look for quote bunches end quote of absences. He  
21 suggested that employers should concentrate their  
22 attention on the largest percentage of absences  
23 rather than using a quote shotgun end quote  
24 approach of checking on all employees.

1 I was especially fascinated by Bill's ability  
2 and knowledge of exhaust ventilation to control  
3 exposures of workers to dust and vapors by  
4 ventilation of the work area. The norm in those  
5 days was use of a large propeller fan placed in  
6 either the ceiling or outside wall of the work  
7 area. Systems that had quote pick up end quote  
8 hoods (or quote positioners end quote as they were  
9 sometimes called) at the point of emission of the  
10 dust or vapor were to come later. But not so with  
11 Bill and OI. Bill was years ahead in his design  
12 of local exhaust systems which included such  
13 niceties as adequate face velocities, being close  
14 to the point of emission for adequate capture  
15 velocity and adequate transport velocity to insure  
16 dust would not collect in piping. The common  
17 practice ini those days was to have exhause  
18 ventilationsystems designed, built, and installed  
19 by tinsmiths, who could adequately install a wall  
20 or ceiling fan but had no knowledge of proper  
21 ventilation systems."

22 Under Some Vignettes. "Bill's quote  
23 consultant end quote stationery carried this  
24 message at the bottom of the page. It takes a

1 Hazard to spot a Hazard."

2 Under the bottom under To Reach or Not to  
3 Reach for a Star. "In 1968 Bill Hazard delivered  
4 his Donald E. Cummings award lecture. This was  
5 the oldest and at the time the only AIHA award for  
6 those living in the United States. Bill titled  
7 his lecture To Reach or Not to Reach for a Star."  
8 In the second sentence of the next paragraph, well  
9 I will just read the first sentence too. "Then  
10 Bill went to to say about dealing with AIHA,  
11 quote, let us look at two points of view. There  
12 have been two ways of tackling the problems of  
13 life such as of a family's growing up end quote.  
14 One is to set our goals reasonably low because not  
15 to do so causes too much anxiety and  
16 disappointment brought on by the failure to meet  
17 goals, so do not reach for a star.

18 The second point of view he said is to set  
19 our goals high so that we grow by stretching and  
20 if we reach for a star we may go higher than we  
21 thought we could."

22 The next column in the middle paragraph,  
23 "Bill concluded by saying industrial hygiene which  
24 means AIHA by virtue of its position is the only

1 all encompassing professional society in the  
2 field, must answer the question to reach or not to  
3 reach for a star. Then he made one final  
4 statement. I hope we reach for a star."

5 Your Honor, at this time Owens-Illinois calls  
6 Bill Hazard by deposition from his deposition  
7 transcript in 1981.

8 MR. WYLDER: The court's already ruled on  
9 that and counsel knows that.

10 MR. O'HARA: Can we make an offer of proof on  
11 that at some --

12 THE COURT: You may, the court's previously  
13 ruled. Objection is sustained.

14 MR. O'HARA: Your Honor at this time with  
15 your permission, Owens-Illinois would like to call  
16 Mr. Richard Grimmie.

17 THE COURT: You may.

18 RICHARD E. GRIMMIE

19 CALLED AS A WITNESS ON BEHALF OF THE  
20 DEFENDANT OI, HAVING BEEN FIRST DULY SWORN, WAS  
21 EXAMINED AND TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MR. O'HARA:

24 Q Mr. Grimmie, would you please introduce

1 yourself to the court and the jury?

2 A I'm Richard E. Grimmie, I reside at 202  
3 First Avenue, West Berlin, New Jersey. 08091.

4 Q I'm not sure that the jury needed that but  
5 -- will you please tell the jury in what year were  
6 you born?

7 A 1922.

8 Q And how old does that make you?

9 A Well, I will be seventy-five next year,  
10 January.

11 Q For how long have you lived in New Jersey?

12 A All of my life.

13 Q And did you grow up there in New Jersey?

14 A I -- we can stand on our front porch and  
15 look over there and see the house my wife was born  
16 in, four doors down see the house I was born in.  
17 So I grew up with the exception of time in World  
18 War II when I was in Europe and North and South  
19 Carolina. But for all practical purposes I grew  
20 up in West Berlin.

21 Q Mr. Grimmie, could you please tell the  
22 jury the extent of your education?

23 A I'm a high school drop out.

24 Q How many years of high school did you



1 have?

2 A Well in my second year was during the  
3 Great Depression, if anyone here remembers that.  
4 I had no clothes, no shoes. My father left my  
5 mother with eight children. So I had to drop out  
6 of school. And I went to work for -- pumping gas  
7 for fifty cents from six o'clock in the morning to  
8 four o'clock in the afternoon.

9 Q You mentioned a little bit earlier that  
10 you did some things during World War II. Right?

11 A Yes.

12 Q Just focusing on the years between 1940  
13 and 1945, can you tell the jury what you were  
14 doing?

15 A I went into the 100th Infantry Division, a  
16 company 399th Infantry Regiment. I went in as a  
17 private. I held every enlisted pay grade but Pfc.  
18 I was discharged as first sergeant.

19 Q For what years were that?

20 A 1943 to 1945.

21 Q Before 1943 but during the time the war  
22 was still on, what were you doing then?

23 A Oh I was working in a lumber yard and then  
24 I went to work at New York Shipbuilding

1 Corporation in Camden, New Jersey. And in the  
2 shipyard we built ships for the Navy from PT boats  
3 to a battleship.

4 Q And what kind of work did you do in the  
5 shipyard?

6 A I worked in the insulation department.

7 Q Now Mr. Grimmie, are you currently  
8 suffering any medical conditions?

9 A Yes, sir.

10 Q Is there anything that is currently  
11 affecting you?

12 A Yeah, I just recently took seven pills  
13 which is a weekly dose for arthritis. I have  
14 asbestosis. I have a benign tremor, you'll notice  
15 my head will shake. I can't write anymore because  
16 I have lost the use of my left hand and I'm left-  
17 handed.

18 Other than seventy-four year aches and pains,  
19 I guess that would be it.

20 Q Are any of these conditions to the extent  
21 that you can tell, do they affect your memory or  
22 your mental capacities?

23 A Not that I know of.

24 Q Mr. Grimmie, have you ever testified in a

1 court like this room before in front of a jury  
2 like this one here?

3 A Yes, sir.

4 Q How many times have you testified in a  
5 courtroom like this before?

6 A Just one time.

7 Q And do you remember how long ago that was?

8 A It was I believe in the 1960s. No no, in  
9 the 1970s.

10 Q Has Owens-Illinois or any lawyers for  
11 Owens-Illinois ever asked you to come and testify  
12 at a trial before?

13 A For Owens-Illinois? No.

14 Q Now you've had a couple of depositions.  
15 Right?

16 A Five.

17 Q And at the depositions, lawyers had a  
18 chance to ask you some questions about your prior  
19 work experience?

20 A Yes.

21 Q Did there come a time Mr. Grimmie that you  
22 became an employee of Owens-Illinois?

23 A I beg your pardon?

24 Q Did there come a time when you became an

1 employee of Owens-Illinois?

2 A Yes.

3 Q Please tell the jurors when that was?

4 A It was February 14th, 1945 I believe.

5 Q Are you certain of the year?

6 A Well my wife is going to kill me because

7 it was just before we were married.

8 Q Your wife is here with you today?

9 A Yes.

10 Q Is it difficult for you to travel without

11 having some help?

12 A Yes, it is.

13 Q When you started at Owens-Illinois, did

14 you start out in an hourly capacity or in some

15 other capacity?

16 A Hourly.

17 Q That means you actually punched a clock or

18 how did they do it back then?

19 A You punched the clock and report to the

20 supervisor.

21 Q And for about how long did you stay at

22 Owens-Illinois as an hourly employee just

23 approximately?

24 A Well there was a period of time I left the

1 Berlin plant to go to Sayreville and then back to  
2 Berlin. I believe I left the Berlin plant on  
3 January 2nd, 1947, and I'd have got back 2nd or  
4 3rd of August of that year.

5 Q Did I understand that you started at  
6 Berlin and I think -- you started at Berlin, then  
7 you spent some time at Sayreville and then you'd  
8 gone back to Berlin?

9 A Yes.

10 Q And these -- the Berlin plant and the  
11 Sayreville plant that you mentioned, were these  
12 plants operated or owned by Owens-Illinois?

13 A Yes.

14 Q Now when you -- when you joined  
15 Owens-Illinois, was it a glass company primarily?

16 A Well Owens-Illinois was a glass company,  
17 but our plant did not make glass.

18 Q Okay. And what did you -- what did  
19 Owens-Illinois make at the Berlin and Sayreville  
20 plant?

21 A At the Berlin plant was a pilot plant to  
22 develop a product.

23 Q When you say pilot, I don't mean to  
24 interrupt you, what do you mean?

1           A   Just that, to develop a product, to -- a  
2           calcium silicate high temperature insulation.

3           Q   Did it have a name?

4           A   Yes, Kaylo. And Sayreville plant was  
5           built to produce Kaylo. When the Sayreville plant  
6           got up to production, Berlin was to close.

7           Q   When you first joined Owens-Illinois, did  
8           you have any medical examination?

9           A   Yes. Before I went to work I went into  
10          the plant dispensary, I was given a preliminary  
11          examination by the plant nurse who was on duty  
12          eight hours every day, Monday through Friday. And  
13          the plant physician at eleven thirty to twelve  
14          o'clock every day, he finished the examination.

15          Q   Were you actually seen by both of those  
16          people?

17          A   Yes.

18          Q   And the doctor that you mentioned, did he  
19          actually, you know, put a stethoscope on you and  
20          ask you questions and things like that?

21          A   Yes.

22          Q   Did the plant nurse -- was this the  
23          first day that you ever arrived at any facility  
24          that was owned by Owens-Illinois?

1 A Yes.

2 Q Did the plant nurse on the first day say  
3 anything to you about any of the dust protection  
4 programs in place at Owens-Illinois?

5 A Yes, sir.

6 Q Will you please just tell the jury what  
7 she told you about that?

8 A During her portion of the orientation  
9 program, she told me that there were certain areas  
10 which dust masks or respirators, whichever you  
11 want to call them, were required as long as you  
12 were working in that area.

13 Q Did she describe these as something or  
14 areas where the employees had a choice about  
15 whether to use them?

16 A No, they were specifically designated  
17 respirator areas.

18 Q And did she say anything to you on that  
19 first day about why there were those kinds of  
20 areas in the plant?

21 A Yes. She mentioned to me the fact that we  
22 used silica in our product and asbestos.

23 Q Is it fair to say that as of the first day  
24 or the first hours that you came to work at

1 Owens-Illinois, you understood that asbestos was  
2 part of the ingredients of the product that was  
3 being made?

4 A Yes.

5 Q As an hourly employee at Owens-Illinois,  
6 were you made aware of any of the health effects  
7 of asbestos, Mr. Grimmie?

8 A Yes. I understood that if asbestos,  
9 inhaled, it's a very tiny fiber and if you look at  
10 it under a microscope it has a little barb on it,  
11 that will impale itself in your lung and cause  
12 what they call pleural thickening. This reduces  
13 breathing capacity.

14 Q When you're an hourly employee, were you  
15 ever specifically advised about the possibility of  
16 asbestosis or the disease asbestosis?

17 A Yes.

18 Q Which people at Owens-Illinois actually  
19 talked to you about asbestosis?

20 A Well the plant nurse and my supervisor.

21 Q What about the plant doctor?

22 A I don't remember the plant physician. He  
23 was there for a half hour each day to take care of  
24 bumps and bruises.



1 Q I would like to just ask you a couple of  
2 questions about the jobs that you did when you  
3 were an hourly employee at Owens-Illinois. Could  
4 you please describe for the jurors, you know, what  
5 kind of jobs that you had during that time?

6 A Yes. I started as a production handyman,  
7 and I think that means just what it says, wherever  
8 I was needed to assist the mechanic, that is where  
9 I would be sent. I went from that to batch mixing  
10 and from batch mixing to pouring, and from pouring  
11 I went into the personnel department.

12 Q It might be helpful Mr. Grimmie if you  
13 could explain to the jury just the general way,  
14 the general processes that were involved in making  
15 Kaylo so that they have some context within which  
16 to understand the jobs that you do?

17 A Okay. Now this is during the time period  
18 that we are talking about.

19 Q Right.

20 A Kaylo was mixed in a ribbon mixer.

21 Q Did you say ribbon?

22 A Yes, it's a curly-Q thing and it just  
23 keeps going, a cement mixer. And the ingredients  
24 were silica, lime, diatomaceous earth, clay,

1 asbestos and for general Kaylo that was it. They  
2 were introduced into the mixer, mixed and pumped  
3 down to a pouring line.

4 Q When you say pumped, in what form was the  
5 substance? Was it solid or liquid?

6 A It was a slurry, slurry type of -- very --  
7 you couldn't carry it in your hand, but in a  
8 fourteen quart bucket you could ladle it into a  
9 mold.

10 Q And what happened to the slurry material?  
11 Where did it go and what happened to it?

12 A Well, at Berlin at the time, we were  
13 making flatware and it would be powered into a  
14 mold. It would be poured into a mold, the excess  
15 would be secreted off and the car built up and  
16 then the car, when there was enough cars which  
17 would be fourteen, we would go into an autoclave.

18 Q What is an autoclave?

19 A An autoclave is a pressure vessel and  
20 incidentally, that is the reason Owens-Illinois  
21 located the pilot plant in Berlin, because there  
22 was two autoclaves there. It was formerly a sand  
23 lime brick manufacturing facility. After the  
24 material was autoclaved at a hundred twenty-five

1 pounds per square inch steam pressure, it set it  
2 up in what would be considered a solid form. It  
3 was taken out of the autoclave, stripped out of  
4 the mold, put into a drying -- put into a drying  
5 car and put into a drier to bring it down to the  
6 necessary moisture content.

7 Q And then what happened to the material  
8 after it came out of the autoclave and dried?

9 A Then it went to the finishing department  
10 and at the time the flatware, the top surface  
11 which was rather rough would -- was sanded off by  
12 a huge sander and the sides were beveled slightly.  
13 They were trimmed square and we wound up with an  
14 eighteen by thirty-six inch piece of ware.

15 Q And did you have a variety of jobs that  
16 were involved in making this flatware? I think  
17 you described pourer and --

18 A Yeah, I was a pourer and I worked at  
19 loading autoclaves, at stripping the molds.

20 Q Mr. Grimmie, when you were an hourly  
21 employee at Owens-Illinois, did you have -- were  
22 you a member of a union?

23 A Yes, sir.

24 Q What union was it?

1 A Glass Bottle Blowers' Association of the  
2 United States and Canada.

3 Q And did you have any position with the  
4 union?

5 A I was the secretary of the --

6 Q What did that mean at the Berlin plant?

7 A Well, that meant at union meetings I took  
8 minutes of the meetings and if there was an  
9 executive meeting, I would sit in on it with the  
10 president, vice president.

11 Q As secretary of the union, did you have  
12 any interaction with the -- the management people  
13 at Owens-Illinois about what was going on in the  
14 plant?

15 A Yes, sir.

16 Q And how frequent were those contacts?

17 A Well I would have to say that not too  
18 frequent, but the frequency -- the biggest reason  
19 I would have to contact management would be when a  
20 supervisor threatened to fire an employee for not  
21 wearing his respirator. And this was rather  
22 frequently. And this was a constant struggle to  
23 get people to wear the respirators.

24 Q Can I -- at the Berlin plant, where you

1 started at the Berlin plant when you returned, did  
2 they have any dust control systems?

3 A Yes, sir.

4 Q Could you please describe for the jurors  
5 what was -- what kind of equipment was involved  
6 and what it did?

7 A We had in place a Sly dust collector,  
8 S-l-y is a manufacturer's name. And the dust  
9 collector was rather huge. It works the same way  
10 -- the same principle as our vacuum cleaner at  
11 home. But this may have been fourteen feet wide  
12 and thirty feet long. And there was a series of  
13 -- series meaning hundreds, of filter bags hanging  
14 on a rack inside of the dust collector. And what  
15 this rack was for was to shake the bags to shake  
16 whatever dust may have accumulated on them. Um --

17 Q How did -- how -- how many of these  
18 machines were there?

19 A Well at the time, at the time of the pilot  
20 plant operation there was one.

21 Q And how is it that the Sly dust collector  
22 does, since it's located in one spot, how does it  
23 do its job at other locations in the plant?

24 A There was very large ducts going to each

1 operation and off of the large ducts were smaller  
2 flexible hoses going to, if I may use a trim saw  
3 as an example, a trim saw had a twelve inch  
4 sawblade and this mechanism was built to straddle  
5 that sawblade and leave four and a half inches of  
6 it exposed. Because the largest material, the  
7 thickest material we made was four inches so that  
8 would bring this in. And then the duct work would  
9 pull the dust from the sawblade up into the  
10 collector.

11 Q How powerful was this system?

12 A How powerful was it? I -- it was -- I  
13 think I mentioned twenty thousand cubic feet a  
14 minute. I don't mean to be joking, but sometimes  
15 an unsuspecting maintenance man would be working  
16 on the saw and he would get too close and it would  
17 pull the hat right off of his head. So it was I  
18 would say a very powerful system and it was well  
19 maintained.

20 Q Speaking of the maintenance, what was --  
21 what was the maintenance schedule for this  
22 machinery?

23 A Okay. We were scheduled to shut down  
24 every two hours.

1 Q Shut down what?

2 A The operation. The dust collector would  
3 be shut down and when it was turned off, it would  
4 automatically shake the bags. Now this was also a  
5 ten minute break for the people.

6 Q Like you, when you were an hourly  
7 employee?

8 A Yes. And I appreciated it. And at noon,  
9 at lunch time, the dust collector was shut off and  
10 the maintenance man, the truck driver, would go up  
11 inside of the baghouse to make sure all of the  
12 dust had gone down through the chutes into the  
13 hoppers underneath so that it wasn't clogging up.

14 Q Who controlled at Owens-Illinois when this  
15 system was operating?

16 A Well it would be turned on at the  
17 beginning of the shift. Now we had a policy in  
18 place that is almost unheard of, but we had --  
19 hourly people had authority to shut down the  
20 operation if they could see dust coming out of one  
21 of these pick up hoods.

22 Q So you, when you were an hourly employee,  
23 did you have that authority?

24 A Yes.

1 Q In your experience when you were an hourly  
2 employee, did it ever happen that one of your own  
3 colleagues declared I see dust?

4 A Yes.

5 Q And the production in this operation will  
6 stop?

7 A Yes.

8 Q And then what happened?

9 A Well, the maintenance people would go up  
10 into the collector to check the bags and then  
11 check to see if it was clogged up anyplace or if  
12 the duct work was clogged.

13 Q You mentioned I think earlier some trim  
14 saws. Correct?

15 A Yes.

16 Q Now how many trim saws were there?

17 A Well in the beginning, we had what we  
18 called the flatware finishing line. The product  
19 that we developed was roof tile, it was a roof  
20 deck that was made eighteen by thirty-six inches,  
21 two and a half inches thick. It was a fire proof  
22 material and that is what Kaylo was to be. But we  
23 had a somewhat of a genius at Berlin and he  
24 developed a low density product that could be made



1 into pipe covering. And when we made molds and  
2 started pouring pipe covering, then additional  
3 dust collecting capacity was added.

4 Q In the Sly dust collection system, was  
5 there a way to manage whether the dust collection  
6 was going on in one operation as opposed to  
7 another?

8 A Yes, absolutely. There was gate valves in  
9 the duct work and if one saw was being operated,  
10 the gates on all of the other pick up lines could  
11 be closed so that all of the effort of the  
12 collector was concentrated on the air that was  
13 being worked.

14 Q Mr. Grimmie, when you were an hourly  
15 employee, did you know whether Owens-Illinois had  
16 an industrial hygienist?

17 A Yes.

18 Q Could you please tell the ladies and  
19 gentlemen whom you remember to be the industrial  
20 hygienist at Owens-Illinois?

21 A Bill Hazard.

22 Q When you were at Berlin and then at  
23 Sayreville and then back at Berlin as an hourly  
24 employee, did you ever see Bill Hazard at the

1 plants?

2 A Yes.

3 Q When you saw Bill Hazard at the Berlin  
4 plant and at the Sayreville plant, could you just  
5 describe for the ladies and gentlemen of the jury  
6 what you saw him doing?

7 A Well Bill would come in with a team of his  
8 people, and that is if we may take a trim saw,  
9 they would strap around the trim saw feeder's neck  
10 a pipe that would -- a flexible rubber that would  
11 come up right to his breathing zone and then it  
12 would go down to his belt line where there was a  
13 little mechanism that created a vacuum. And this  
14 was to create the same conditions that this  
15 operator was working in, his breathing zone. Then  
16 this material went into some solution and then it  
17 was analyzed.

18 Q You had an understanding at this time that  
19 this was a dust counting procedure?

20 A Absolutely.

21 Q And you actually saw him putting these --  
22 with the equipment, putting the tubes on the  
23 workers at a place where they would be breathing.  
24 Is that what you saw?

1 A Well, yes. And I actually had it put on  
2 me.

3 Q By Bill Hazard or some of his team?

4 A No, one of his team.

5 Q Mr. Grimmie, I would like to show you a  
6 picture if I could, it has been marked as  
7 Owens-Illinois exhibit 530. Mr. Grimmie, do you  
8 recognize that picture?

9 A Yes, I recognize it.

10 Q Are you --

11 A I'm in it.

12 Q You're in it. And you recognize yourself?

13 A Yes.

14 Q And you recognize the other people that  
15 that are in that picture?

16 A Preston Gillis. Paul Shoe from Aetna who  
17 was our insurer. Bill Hazard.

18 Q Is this a picture that was taken at the  
19 Owens-Illinois plants?

20 A Yes. This incidentally, this piece of  
21 equipment --

22 Q Well before you testify any more, is this  
23 a fair and accurate picture of yourself and these  
24 other Owens-Illinois employees at the time that

1       you were working there?

2           A   Yes, absolutely.

3           MR. O'HARA:   Your Honor I would move --

4           A   But I was salary at the time.

5           MR. O'HARA:   Okay, I move for its admission  
6   Your Honor.

7           THE COURT:   Any objection?

8           MR. WALKER:   Could I ask a couple questions  
9   about it?

10          THE COURT:   Sure.

11          BY MR. WALKER:

12          Q   About when was this taken, Mr. Grimmie?

13          A   Um, probably after 1958.   I don't know  
14   exactly.

15          Q   And at which plant was it taken?

16          A   At Berlin plant.

17          Q   And when you say prior to '58, what would  
18   make that a cut off time that it couldn't have  
19   been later than '58?

20          A   Well the fact that Pres Gillis was there  
21   and after 1958 he --

22          MR. WALKER:   No objection.

23          THE COURT:   Any other objection?   No?   It  
24   will be admitted.

1 MR. O'HARA: Your Honor, with your permission  
2 then, may I use the enlargement that we brought?

3 THE COURT: You may. What is that marked?

4 MR. FISCHER: Your Honor this is marked  
5 530-A.

6 Q Mr. Grimmie, I'm going to show you an  
7 enlargement of the picture that I have just showed  
8 you. If you could, could you tell, I don't mean  
9 to cut off the reporter here, but could you tell  
10 the jurors who these people are and -- well why  
11 don't we start with yourself?

12 A This is me.

13 Q In the work shirt?

14 A Yes.

15 Q This is Preston Gillis.

16 Q Who was he?

17 A He was in the personnel department. Paul  
18 Shoe was Aetna, our insurer's inspector. He would  
19 also do the same work that Bill Hazard was doing.

20 Q You mean the dust counting?

21 A Yes, dust sampling.

22 Q Could you point out Bill Hazard please?

23 A I think this is Bill Hazard. But I don't  
24 recognize this other gentleman.

1 Q Why don't you see if -- if the caption  
2 there helps you?

3 A Okay. Bernie Haven was Aetna.

4 Q In this caption here, it says that all of  
5 you are looking over a trim saw installation at  
6 Berlin?

7 A Yes.

8 Q And when you say -- when it says trim saw  
9 installation, what does that mean?

10 A Well what this piece here --

11 Q In the lower left?

12 A Is what we called a mandrel. And that is  
13 where the piece of pipe covering would go on. The  
14 inside diameter of the pipe covering would fit  
15 right on there. The leg would come down. That  
16 would go through. There was a sawblade on each  
17 side, it would cut the leg off and cut it to size.  
18 What we were doing there is looking at duct work.

19 Q Why would Bill Hazard show up at a trim  
20 saw installation?

21 A Well I don't know if that is the reason he  
22 was there specifically. But if it was a new  
23 installation, then he probably wanted to see it.

24 Q This -- the testing that you saw Bill

1 Hazard do, is this the kind of testing that would  
2 be done in just one area or in --

3 A No, every area where dust would be  
4 generated.

5 Q You mentioned that there were some Aetna  
6 people who did counting similar to Mr. Hazard?

7 A Yes.

8 Q Did you actually see the Aetna people in  
9 the Owens-Illinois plants doing this kind of  
10 testing?

11 A Yes, sir.

12 Q And was Mr. Hazard with them on occasion?

13 A I have no recollection of him being with  
14 them.

15 Q Were there any housekeeping procedures in  
16 place at the Owens-Illinois plants?

17 A Yes, sir.

18 Q Why don't you just tell the jury what  
19 efforts were made at the Owens-Illinois plants to  
20 keep work areas clean?

21 A Each shift by union contract got off five  
22 minutes before the end of their shift. We worked  
23 three shifts and then we got up to three shifts  
24 seven days a week. Each shift was allowed five

1 minutes personal time by union contract; so at  
2 quarter to the hour, the operation would shut down  
3 and the people working would clean up their work  
4 area.

5 We had a mechanical sweeper on each shift,  
6 guy would sit on it and drive around and sweep the  
7 floor. It was a vacuum type thing. And out back,  
8 we had a bin for him to empty his -- the container  
9 in the sweeper that was as air proof as we could  
10 get it. If there happened to be any batch spills  
11 or any mishaps, they were immediately taken care  
12 of.

13 I think the floor sweeper was one of the  
14 greatest things we ever spent money on because we  
15 had quite a few lift trucks operating in the  
16 plant, and if you allowed any dirt at all to  
17 accumulate on the floor, it generated dust. But  
18 with the floor sweeper operating we kept that down  
19 to acceptable levels or below.

20 Q The jury in this trial has heard some  
21 evidence about I think what was characterized as  
22 unbelievably bad dust conditions in a non-  
23 Owens-Illinois plant. Given what you saw of the  
24 house keeping practices at Owens-Illinois, do you



1 have any reason to believe that things were ever  
2 unbelievably bad at the Owens-Illinois plants?

3 MR. WALKER: I don't object to Mr. Grimmie  
4 telling us what he saw, but this is leading.

5 THE COURT: Sustained. You can rephrase.

6 Q Mr. Grimmie, why don't you characterize  
7 using your own words the quality of the  
8 housekeeping efforts that you observed when you  
9 were an Owens-Illinois hourly employee?

10 A Will I think I mentioned I worked in a  
11 lumber yard before I went to Owens-Illinois and I  
12 was somewhat amazed at the effort that management  
13 put into housekeeping. They had housekeeping  
14 contests where crews would be judged on the way  
15 they left the operation at the end of their shift.

16 We had housekeeping slogans that the  
17 personnel guy would call the home of one of the  
18 employees picked at random and ask if that person  
19 knew what the housekeeping slogan was for that  
20 week and if that person happened to not know, we  
21 were affiliated with Libby Glass at the time and  
22 usually the award was a beautiful set of Libby  
23 glassware.

24 But it appeared to me that management was

1       trying to take housekeeping with the person, with  
2       the employee and take it home so that the wife  
3       could beat on him there.

4               Q   Let me switch subjects just for a second  
5       and I think earlier in one of your answers you  
6       mentioned respirators. Did Owens-Illinois at its  
7       plant, did they have a respirator program?

8               A   Yes, sir.

9               Q   Why don't you just tell the jury what the  
10       program involved, who managed it, where it  
11       applied?

12              A   There were certain areas that -- where the  
13       dust level could not be controlled that were  
14       designated respirator areas. People working there  
15       were required to wear a respirator, and I won't  
16       hesitate to tell you it was a tough proposition to  
17       get a person to wear a respirator. They -- the  
18       respirator program was primarily administered by  
19       the plant nurse. And she had boxes of  
20       respirators. When a shift -- before a shift  
21       started, the supervisor would go into the  
22       dispensary and get his respirators. They had been  
23       cleaned with alcohol and a new filter put in. He  
24       would take them to his -- he had a field desk and

1 deal them out to the people in his crew that were  
2 required to wear them. At the end of the shift,  
3 the people would put the respirators in a box and  
4 he would return that to the dispensary and the  
5 nurse once again would clean them with alcohol and  
6 change the filters. Eventually we got a  
7 dishwasher.

8 Q A what?

9 A A dishwasher and cleaned the respirators  
10 with a dishwasher.

11 Q Mr. Grimmie, at the Owens-Illinois plants,  
12 did everybody have his or her own personal  
13 respirator that they took care of?

14 A No.

15 Q Why?

16 A Well we wanted to be sure that they were  
17 properly maintained and the only way -- and this  
18 just started before I was in personnel, but it was  
19 later described to me the only way the personnel  
20 director who was also the safety director could  
21 feel confident that they were properly maintained,  
22 that they were turned in and the nurse cleaned  
23 them and changed the filter.

24 Q You've talked about some of the

1 difficulties in enforcing the respirator program.  
2 Did -- what steps did you observe while you were  
3 an hourly employee at Owens-Illinois about the way  
4 in which Owens-Illinois tried to enforce the  
5 respirator program?

6 A Well, it was usually through a threat and  
7 there was a procedure, a contractual procedure.  
8 Verbal warning, written warning, time off,  
9 termination.

10 Q By time off you mean suspension?

11 A Yes, three days time off. And the  
12 supervisor would talk to the person and try to  
13 convince him to wear his respirator. It was not  
14 uncommon to walk around the plant and see certain  
15 people that just seemed as if they didn't care, to  
16 be protecting their Adams apple instead of being  
17 up there. A respirator is very uncomfortable to  
18 wear and that is why we put all the money and  
19 effort into collecting dust so that the hazard  
20 didn't exist.

21 Q When you were an hourly employee, did you  
22 personally know of instances where people were  
23 either given an oral warning or a written warning  
24 or suspended or terminated because they failed to

1       comply with respirator requirements?

2           A   I don't recall any termination.   But being  
3   a union officer, I had to sit in on the grievance  
4   procedure and yes, I remember warnings being  
5   given, union officers would talk to the people,  
6   tell them look, you're at the point we can't  
7   protect you anymore.

8           Q   And when you were involved as the union  
9   secretary and the union representative during this  
10   period, did you have communications with people  
11   about these issues?

12          A   With people?

13          Q   Or with -- did you have interaction at all  
14   with Owens-Illinois management personnel about the  
15   enforcement of the respirator program?

16          A   Yes.   In meetings that -- we had a monthly  
17   meeting with management and it is fair to say that  
18   not a month went by that it wasn't on the agenda.

19          Q   When you were the union representative,  
20   were you urging the enforcement of the program or  
21   urging the abandonment of the program?

22          A   No, I urged the enforcement of the  
23   program.

24          Q   As the union representative?

1           A   Yes.   When I was a batch mixer I was  
2           required to wear a respirator and I did and it is  
3           very uncomfortable, it's unnatural. But you can  
4           become accustomed to it if you stay with it. If  
5           you hang by your neck long enough and don't die,  
6           you can become accustomed to that. So just stick  
7           with it and it would work.

8           Q   Let me move to a different area --

9           THE COURT: Can we take a break now?

10          MR. O'HARA: Your Honor, can I just do this  
11          one point and then we can break?

12          THE COURT: Sure.

13          Q   Mr. Grimmie, while you were at  
14          Owens-Illinois, I think I forgot to ask you a  
15          question earlier. When you had your first  
16          physical, I think you described that for the jury,  
17          did you actually -- did you have any x-ray taken  
18          at that time?

19          A   Yes.

20          Q   Where did you have to go for that?

21          A   At the time they had an x-ray lab in  
22          Glassboro. They had a contract with a doctor  
23          there. And I had to go to Glassboro which means  
24          nothing here, but it's about fourteen miles from

1 Berlin. And every employee had a pre-employment  
2 x-ray.

3 Q Now after the x-ray and the physical that  
4 you had when you first came to work at  
5 Owens-Illinois, did you ever have any x-rays after  
6 that?

7 A Every year.

8 Q Did you have to go to the same place?

9 A No, no, it was changed.

10 Q You got to go to a closer place?

11 A Um, yes, it did get closer. But it didn't  
12 matter because we were paid to travel.

13 Q It wasn't taken out of your time? You  
14 mean you weren't docked part of your salary?

15 A No no, we either went on company time or  
16 the company paid the employees to go.

17 Q Were you the only one who had x-rays  
18 annually?

19 A Oh no. Every factory worker had an annual  
20 x-ray. Office workers were every two years. I  
21 still have -- I don't have in my possession but,  
22 if I may, Monday I go for an x-ray and all of my  
23 x-rays are still in a packet about that thick.

24 Q With your personal physician?

1           A   No, with the plant nurse whom  
2           Owens-Corning retained to maintain the -- those  
3           x-rays.

4           Q   During the entire time that you were at  
5           Owens-Illinois, did you have an x-ray every year?

6           A   Yes, sir.

7           Q   Was that something that you had a choice  
8           about? I mean could you choose not to go?

9           A   No, you go or else.

10          MR. O'HARA: Your Honor I think this would be  
11          a good time for a break.

12          THE COURT: All right, go ahead and put your  
13          note pads upside down, go ahead and step back to  
14          the jury deliberation room and relax for a few  
15          minutes.

16          (THE FOLLOWING PROCEEDINGS WERE HAD OUT OF  
17          THE PRESENCE OF THE JURY.)

18          THE COURT: Record reflect the jurors have  
19          left the courtroom, go ahead and take a break for  
20          a minute Mr. Grimmie. Take a fifteen minute  
21          recess.

22          (A RECESS WAS TAKEN.)

23          THE COURT: Record reflect all parties have  
24          returned to the courtroom. Ready for the jurors?



1 Have you concluded your questioning yet Mr.  
2 O'Hara?

3 MR. O'HARA: No I haven't.

4 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE  
5 PRESENCE OF THE JURY.)

6 THE COURT: You may be seated. Record  
7 reflect the ladies and gentlemen have returned to  
8 the courtroom.

9 Mr. O'Hara, you may continue.

10 BY MR. O'HARA:

11 Q Mr. Grimmie, let me switch gears a little  
12 bit. I think earlier today you mentioned the fact  
13 that you became a member of the I think personnel  
14 and production parts of Owens -- the  
15 Owens-Illinois Kaylo division at some point. Is  
16 that right?

17 A Personnel production?

18 Q Personnel and production? Did you have --

19 A Yes, at one time I was personnel manager  
20 and production manager. But that was not for  
21 Owens-Illinois. I was personnel manager with  
22 Owens-Illinois.

23 Q Will you just describe for the jurors what  
24 you did as personnel manager at Owens-Illinois?

1           A   Um, we -- I always enjoyed -- we had  
2   people programs and if I may, in South Jersey  
3   there was four Owens-Illinois plants. One at  
4   Glassboro, Bridgeton, Vineland, Berlin. And on  
5   the map, they're sort of a diamond. So we formed  
6   what we called the Diamond Derby, and each summer  
7   all four plants would get together and we would  
8   compete in volleyball, archery, all sorts of  
9   things.

10           Within the plant I established safety  
11   programs to purchase posters, to hang around the  
12   plant. I supervised the plant nurse and the plant  
13   physician and made sure that everything out in the  
14   plant was going as it should. And we were on  
15   three shift operation and I made it a practice to  
16   go in or work -- our workday started at eight  
17   o'clock. I made it a practice to go in at maybe  
18   quarter to seven and just walk around the plant to  
19   see -- let people see me and if they had anything  
20   to talk about, we could talk. I also monitored  
21   the safety boards or bulletin boards for graffiti.  
22   During the day I would walk around the plant so  
23   people could see me.

24           Q   Did you have short days during that period

1 or was it straight nine to five?

2 A No, sir. As I mentioned before, I'm a  
3 high school drop out and I worked twelve, fourteen  
4 hours a day to make up for what I didn't have up  
5 here. I stayed there and learned and I learned  
6 from people I worked with. And as an aside if I  
7 may, our first child one time asked her mother  
8 when her father was going to come visit her,  
9 because she would be in bed when I got home and  
10 she would be in bed when I left for work. But it  
11 was really my enjoyment, and you have to  
12 understand that it was sort of my hometown and I  
13 knew most of the people and we were, we were  
14 family, really.

15 Q Did you have any responsibilities with  
16 respect to the new people that Owens-Illinois  
17 hired to work at that plant?

18 A Yes, yes. I interviewed and if a person  
19 was to be hired, I conducted a pre-employment  
20 interview and I would go over what was expected of  
21 this person and our safety procedures.

22 Q Did you give any of these people that you  
23 talked to before they actually began work at  
24 Owens-Illinois, did you give them any information

1 about dust hazards at the Owens-Illinois plants?

2 A Yes, sir, I did.

3 Q Please tell the jury what you told people  
4 before they started work at Owens-Illinois about  
5 that.

6 MR. WALKER: Object unless we have -- excuse  
7 me Mr. Grimmie, object unless we have the time  
8 Judge.

9 THE COURT: Sustained.

10 Q In what what position were you at  
11 Owens-Illinois when you were having these  
12 discussions with people before they started work  
13 at Owens-Illinois? What was your job then?

14 A Personnel manager.

15 Q And do you remember approximately in what  
16 years you had personnel responsibilities at the  
17 Berlin plant? Was it after you were an hourly  
18 employee?

19 A Oh yes.

20 Q Okay. And it's before 1958?

21 A Yes.

22 Q Can you remember, can you remember  
23 specifically what different personnel jobs that  
24 you had during that period?

1           A I was a personnel assistant and then  
2           personnel manager. Well excuse me, I went from  
3           personnel assistant to production supervisor which  
4           was in charge of the production department and  
5           then back into personnel as personnel director.

6           Q And was it both in your assistant  
7           personnel capacity as well as your personnel  
8           director capacity that you had these conversations  
9           with people before they started work at  
10          Owens-Illinois?

11          A Yes, sir.

12          Q And what did you tell these people about  
13          dust hazards at the Owens-Illinois plants?

14          A I told them that we had regulations, we  
15          had designated respirator areas. I told them that  
16          we used silica which is a source of silicosis and  
17          I told them that we used asbestos which is a  
18          source of asbestosis. If you are assigned to a  
19          respirator area, for your own protection, you must  
20          wear the respirator.

21          Q Is there anybody that you spoke to before  
22          they started work at Owens-Illinois that you  
23          talked to in your personnel capacity that you  
24          didn't say or that you didn't tell this

1 information to?

2 A Oh I have no recollection of that. I had  
3 a sheet of paper and I checked off the items as I  
4 went down and --

5 Q And were these health hazards --

6 A Yes.

7 Q -- part of the check list?

8 A Part of the orientation program.

9 Q When you were in the personnel area or in  
10 the production area, did you have any continuing  
11 responsibilities regarding enforcement of the  
12 respirator program?

13 A Yes sir.

14 Q Will you please tell the jurors when you  
15 were in these areas at Owens-Illinois what you  
16 did?

17 A Well, generally I would take up the  
18 problem with the shift supervisor. He was the guy  
19 on the front line and he was the guy responsible  
20 for enforcing the program. And more times than  
21 not, if he couldn't enforce the program, there  
22 would be a grievance. He would take disciplinary  
23 action and there would be a grievance, and the  
24 union committee would bring the grievance to me,

1 and I generally was not too sympathetic to it. So  
2 then they would take it to the plant manager.

3 Q When you say you weren't very sympathetic  
4 to it, will you please describe for the jurors the  
5 positions that you took when you were in the  
6 personnel department or in the production  
7 departments regarding the enforcement of the  
8 respirator program?

9 A Yes. What the grievance -- generally what  
10 the grievance asked for was if it happened to be a  
11 written warning or a suspension, they would want  
12 me to call this off, don't let this happen to this  
13 man. And if I knew that this particular person  
14 was a habitual offender, I would do everything I  
15 could to talk reason. And then the grievance  
16 would go to the plant manager and it would be his  
17 decision whether to call off the disciplinary  
18 action or not.

19 Q Are the positions you took on the  
20 respirator program when you were in personnel or  
21 production, were they different than the positions  
22 you had taken when you were a union  
23 representative, when you were an hourly employee?

24 A Yes.

1 Q In terms of the enforcement of the  
2 respirator program?

3 A Yeah, I would be arguing for the guy -- I  
4 would take them in the corner and threaten to  
5 knock a couple teeth out if he didn't do what he  
6 was supposed to do. But as a union representative  
7 I couldn't tell him I'm going to recommend that  
8 you get three days off.

9 Q Did you have any interaction with the  
10 plant nurse in connection with the respirator  
11 program?

12 A Yes.

13 Q Could you please tell the jurors about  
14 that?

15 A Um, I would occasionally talk to her how  
16 it was going, were the supervisors doing their  
17 part, were they picking up their respirators, were  
18 they returning them. In her medical literature  
19 that she got, did she feel there was a better type  
20 of respirator we could be using. Just general  
21 type of things that -- to be sure that she was  
22 doing her job.

23 Q Mr. Grimmie, I think you mentioned earlier  
24 that all of the Owens-Illinois employees were



1 required to have annual chest x-rays. Correct?

2 Except for the -- except for the office employees?

3 A That is right.

4 Q Is that right?

5 A All of the production people, people

6 working in the factory were required to have

7 annual x-rays. Office employees were once every

8 two years.

9 Q During the entire time you were at

10 Owens-Illinois, did it ever come to your attention

11 that any of the x-rays that were taken of the

12 Owens-Illinois employees showed evidence of

13 asbestos-related disease?

14 A Not that I recall. I thought we were

15 doing a terrific job.

16 Q During the entire time you were at

17 Owens-Illinois, did it ever come to your attention

18 that anybody -- any of the employees at the

19 Owens-Illinois plants were making or had made a

20 workers' compensation claim for asbestos-related

21 disease?

22 A During the time I was with Owens --

23 Q During the time you were with

24 Owens-Illinois, right through April of 1958?

1 A I have no recollection of that.

2 Q Mr. Grimmie, when you were working at  
3 Owens-Illinois, was the operation of the Kaylo  
4 division financially successful?

5 A No, sir.

6 Q Um, when you first started there, was it  
7 financially successful?

8 A No, sir.

9 Q Did -- at any time when you were there,  
10 did it ever become financially successful?

11 A I think towards the end we got things  
12 rolling pretty good with expansion, but with pipe  
13 insulation, not with flatware. We made material,  
14 I think I mentioned roof deck and pipe insulation.  
15 And after we converted the plant for pipe  
16 insulation and we started to roll and production  
17 couldn't keep up to sales, so we went on three  
18 shifts a day five days a week and we still  
19 couldn't keep up, so we went three shifts a day  
20 seven days a week. And -- but I think the  
21 philosophy -- see Owens-Corning was a national  
22 distributor for Kaylo for many years.

23 Q As of 1953, correct?

24 A That when it was? Well, thank you.

1 Q Do you have a recollection?

2 A I -- and what Kaylo was, being a high  
3 temperature insulation and this was after the war,  
4 there was many oil refineries, atomic power  
5 generating stations, fossil fuel generating  
6 stations being built and they all required high  
7 temperature insulation. So the feeling was if we  
8 were to provide the high temperature insulation to  
9 the Owens-Corning sales force, then they would  
10 have a better opportunity to sell the entire job.

11 Q Do you know after 1953 whether  
12 Owens-Illinois kept its own sales force after 1953  
13 when Owens-Corning took over the distribution?

14 A I -- I don't remember. I don't want to  
15 guess. I don't remember any of them coming in the  
16 plant any more. There was contact with some very  
17 nice folks.

18 Q There has been some testimony in this case  
19 about a Unarco plant in Bloomington where we are.  
20 To the best of your knowledge, Mr. Grimmie, during  
21 the time you were at Owens-Illinois, were there  
22 any communications between Owens-Illinois and  
23 people at the Unarco plant about how the Unarco  
24 people should run their plant?

1           A   Well I don't want to hurt feelings, but I  
2   never heard of Unarco until probably two weeks  
3   ago.

4           Q   So you don't know the company Unarco?

5           A   No, sir.

6           Q   And you certainly didn't have any  
7   communications with Unarco?

8           A   No, sir.

9           Q   Did Owens-Illinois at the Kaylo plant, did  
10   they make any textile products?

11          A   Textile?

12          Q   Right, like blankets or rope?

13          A   No, sir.

14          Q   Was there any name for the Owens-Illinois  
15   products other than just Kaylo?

16          A   No, sir, not out of the Berlin plant.

17          Q   You talked a little bit earlier today  
18   about the fact that people from Aetna whom I think  
19   you identified in this photograph actually came in  
20   and did dust counting at Owens-Illinois?

21          A   Yes.

22          Q   Were you ever or did you ever have the  
23   training to either conduct those kinds of tests  
24   yourself or interpret those kinds of tests?

1 A No, sir.

2 Q Who at Owens-Illinois had that expertise,  
3 at least to the best that you know?

4 A People in Toledo.

5 Q Did that include Bill Hazard?

6 A There may have been someone in our  
7 laboratory in Berlin, but we didn't do it. It was  
8 Toledo.

9 Q At some of your other depositions, have  
10 lawyers shown you some of the dust counting test  
11 results? Do you remember that?

12 A Well I don't. I have been deposed five  
13 times and it --

14 Q If you were shown those kinds of test  
15 results, would you be in a position today to  
16 analyze or interpret those kinds of results?

17 A No, sir, I don't think so.

18 Q I think you told the jury a little bit  
19 earlier today that you were diagnosed with  
20 asbestosis?

21 A That is correct.

22 Q And please tell the jury when that  
23 diagnosis occurred?

24 A I believe it was 1968.

1 Q Has that disease which you have been  
2 diagnosed with, does that currently cause you any  
3 breathing problems?

4 A No, sir.

5 Q Has that disease which was diagnosed many  
6 years ago, has that disease been stable or has it  
7 progressed?

8 A It has been stable. I'm diagnosed at ten  
9 percent disability. What this means is that I  
10 have lost ten percent of my breathing capacity.  
11 If I may, as soon as I found out I stopped smoking  
12 which is in my opinion a must. But --

13 Q Has your asbestosis, as far as you can  
14 tell, has that been any limitation on your normal  
15 activities?

16 A No. Nothing that I can't attribute to  
17 being seventy-four years old and a hundred pounds  
18 overweight. I have been able to do things. I  
19 have had a boat out in the ocean, the Atlantic  
20 ocean that is. And camping, hiking, things like  
21 that. Usually I meet them on the way back, but  
22 the weight situation, I gained fifty pounds when I  
23 stopped smoking if you please.

24 Q When you testified a little bit earlier

1 today that you worked in the shipyards during  
2 World War II?

3 A Yes, sir.

4 Q The -- and I think you described your work  
5 as insulation work, is that right?

6 A That is right, fifty-eight (phonetic)  
7 department.

8 Q Now was there any kind of pipe covering  
9 products that were used during that period?

10 A Yes, sir.

11 Q And did you actually apply some of that  
12 pipe covering yourself?

13 A Yes.

14 Q In the course of a day, when you were  
15 doing -- well was that the only kind of product  
16 that you worked with when you were an insulator in  
17 the shipyards in World War II?

18 A No. I worked with asbestos.

19 Q Can you describe for the jury what kind of  
20 a product that that was?

21 A During the war when we were building  
22 ships, we were building anywhere from PT boats to  
23 a battle kit if you please. And when a pipe was a  
24 straight line which covered and then it would run

1 off at a ninety degree angle, we would take raw  
2 asbestos, put it in a bucket, make a slurry, muck,  
3 and mold it around that joint. And following up  
4 the insulator after it dried would be a guy who  
5 would sew a canvas covering on it so it wouldn't  
6 deteriorate. But what situation we had there was  
7 an open bag of asbestos and grabbing it in the  
8 hands and dump it in a bucket. And the government  
9 never provided any protection nor did the  
10 shipyards.

11 Q You mean respirators?

12 A That is right.

13 Q Or dust collection equipment?

14 A Nothing.

15 Q You mentioned canvas. Did Kaylo come with  
16 a canvas covering?

17 A Yes. After the material was trimmed to  
18 size, it would go through a tunnel and glue would  
19 be sprayed on it and it would go to a wrapper  
20 packer and there is two sections and the wrapper  
21 packer would take one section, lay it on a piece  
22 of canvas, take the other section, lay it on top  
23 and then roll it and then put it in the carton.

24 Q Will you tell the ladies and gentlemen of



1 the jury what was the purpose for putting the  
2 canvas covering on the top of Kaylo?

3 A Well when the job was -- the application,  
4 all the applicator had to do was open that hinge,  
5 put the piece of pipe covering, the section and  
6 reglue that hinge and it was a finished job.

7 Q At the Kaylo plant, approximately how many  
8 pieces of Kaylo were produced on every shift?

9 A Well, are you talking pipe covering or --  
10 see we had a flatware pouring line that was  
11 independent of pipe covering. On a pipe covering  
12 pouring line, according to the schedule, and the  
13 schedule was laid out by the people that got the  
14 sales, and let's say approximately four thousand  
15 pieces per shift.

16 Q And the plant was running about three  
17 shifts per day?

18 A Yes. Now this is when we were at peak  
19 efficiency.

20 Q And when you were a pipe coverer, and an  
21 insulator during World War II, how many pieces of  
22 pipe covering would you normally use in one of  
23 your shifts?

24 A I haven't the slightest idea.

1 Q Was it less than four thousand pieces a  
2 shift?

3 A Gracious sakes no.

4 Q It wasn't less than four thousand pieces a  
5 shift?

6 A Oh yes, yes, there was a lot of cutting to  
7 do around the angles and it -- I don't know, if I  
8 had to guess I would say if you could put on a  
9 hundred pieces you were a star performer.

10 Q Mr. Grimmie, during the entire time you  
11 were at Owens-Illinois, was there anything that  
12 you saw or heard that suggested to you that  
13 Owens-Illinois didn't take dust control very  
14 seriously?

15 A Absolutely not.

16 Q Is there anything that you heard, saw,  
17 observed at Owens-Illinois when you were there  
18 that suggested to you that Owens-Illinois didn't  
19 try to enforce its respirator program?

20 A Absolutely, they tried to enforce.

21 Q Is there anything that you heard or saw  
22 while you were at Owens-Illinois that suggested  
23 that Owens-Illinois didn't try to find out how  
24 much dust was in the air in the plant where its

1 employees were working?

2 A No, they always monitored, very frequently  
3 monitored the plant atmosphere.

4 Q Is there anything that you heard or  
5 observed while you were at Owens-Illinois that  
6 suggested that Owens-Illinois didn't try to  
7 monitor, didn't try to look at the health of its  
8 own workers to see whether any of them was  
9 developing any asbestos-related conditions?

10 A No, sir.

11 Q Mr. Grimmie, do you know of anything from  
12 the time that you were at Owens-Illinois that  
13 suggested to you that Owens-Illinois agreed with  
14 anyone else to hide from its workers any  
15 information regarding the hazards of asbestos?

16 A I don't believe that.

17 MR. O'HARA: Your Honor that is all the  
18 questions I have.

19 THE COURT: Any questions, Owens-Corning?

20 MR. CONSTANTINE: I have no questions at this  
21 time.

22 THE COURT: Illinois Central Railroad?

23 MR. PETERS: None Your Honor.

24 THE COURT: All right. Mr. Walker?

1 MR. WALKER: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. WALKER:

4 Q Mr. Grimmie, you mentioned that this is  
5 the first time you have testified for you thought  
6 maybe like fifteen years or something like that.  
7 Is that about how long ago you remember it being?

8 A Um, no, it's been longer than that.

9 Q Okay.

10 A I have been retired for -- since 1984 so I  
11 think the McGrath trial was probably ten years  
12 before that.

13 Q Be about 1974 would be your estimate as to  
14 when you last testified?

15 A Yes.

16 Q Over twenty years ago?

17 A Yes.

18 Q Now, who contacted you about coming out to  
19 Illinois and testifying in this case?

20 A Um, Bob Kelly.

21 Q Did you know Mr. Kelly before he contacted  
22 you?

23 A No, sir.

24 Q Okay. And when did he contact you?

1 A Oh, three or four weeks ago.

2 Q What does Mr. Kelly do for a living? If  
3 you -- if he told you?

4 A I think he is a lawyer.

5 Q And where does he make make his office?

6 A I really don't know. I could guess and I  
7 think it may be Chicago.

8 Q Has he ever met you -- was the first  
9 contact by phone or in personal?

10 A I think it was by phone.

11 Q Have you ever met Mr. Kelly face to face?

12 A Have I?

13 Q Yes.

14 A Yes.

15 Q Okay. When did you first see him face to  
16 face?

17 A When he came to my house.

18 Q About how long ago was that?

19 A Probably four weeks ago maybe.

20 Q Who all came with him?

21 A I think there was a young lady with him,  
22 but I don't remember her name.

23 Q And was that the first meeting you had  
24 with anyone to get ready for testifying in this

1 case?

2 A Yes.

3 Q Okay. Have you had any other meetings  
4 with anyone -- any other people to prepare you for  
5 your testimony in this case?

6 A Only since I got here in this beautiful  
7 city I might have.

8 Q Okay. We appreciate that. When did you  
9 get here?

10 A Last night.

11 Q Okay.

12 A Yesterday evening.

13 Q And how did you travel?

14 A By air.

15 Q And who all came with you?

16 A Mr. Kelly, it's embarrassing, a young  
17 lady, I can't remember her name. My wife is  
18 sitting back there and she is --

19 Q Is the lady in the back of the room your  
20 wife?

21 A Yes.

22 Q Okay.

23 A And just four of us.

24 Q Okay. So it was Mr. Kelly. Was it the

1 same young lady who came to your home with Mr.  
2 Kelly?

3 A No.

4 Q And a lady and then of course your wife  
5 and yourself. Is that correct?

6 A That is correct. Yeah, there was a pilot  
7 and a co-pilot.

8 Q Did you all fly on a commercial plane?

9 A No, I --

10 Q Oh, it was a private plane?

11 A It was what, sir?

12 Q I'm sorry. Was your flight on a regular  
13 commercial plane?

14 A No, sir.

15 Q It was on a privately arranged plane?

16 A Privately arranged flight.

17 Q You took off somewhere in New Jersey and  
18 you landed in Bloomington?

19 A No, it was Philadelphia.

20 Q Oh, Philadelphia. Okay. Is that fairly  
21 near your home, Philadelphia?

22 A It's about fourteen miles. I think if I  
23 may that arrangement was made because of my  
24 condition with the paralysis in my hips.

1           Q   Okay.  Insofar as you know, nobody is  
2           charging you for this air flight.  Correct?  Kelly  
3           or somebody --

4           A   If they do it's going to be a lean  
5           Christmas.

6           Q   Kelly or somebody other than yourself is  
7           going to pick up the tab for the plane.  Right?

8           A   Lord, I hope so.

9           Q   Has he told you who is going to pay for  
10          the plane?

11          A   Nope.

12          Q   Okay.  Now did Mr. Kelly show you any  
13          documents or anything at your home or anywhere  
14          else in preparation for your testifying?

15          A   Not that I recall.  The picture that you  
16          see here he got from me.  My wife made a scrap  
17          book when I retired and that picture was in the  
18          scrap book and it's been grossly enlarged, but not  
19          that I recall.

20          Q   You still have the scrapbook?

21          A   I hope.

22          Q   Do you still have the scrapbook?

23          A   Yes, I do.

24          Q   Now you mentioned that you retired in what



1 did you say?

2 A 1984.

3 Q Okay. And you were how old at that time?

4 A Sixty-two.

5 Q Since then, have you been able to enjoy  
6 the fishing and the camping and the hiking and so  
7 forth that you mentioned?

8 A For awhile, yes.

9 Q Okay.

10 A Until spinal stenosis caught up to me.

11 Q All right. And then since then you've  
12 been more limited in what you've been able to do  
13 physically?

14 A That is correct, sir.

15 Q You mentioned that your wife came with you  
16 this time. You and your wife enjoy traveling  
17 together when you can?

18 A Well yes. She comes more or less to help  
19 me bathe and -- see at home we have a shower  
20 stall, I can get in there and shower. I can't get  
21 in a bathtub.

22 Q Okay. In 1958 when the plant was sold by  
23 Owens-Illinois to Owens-Corning, what was your  
24 position then?

1 MR. CONSTANTINE: Objection, scope.

2 THE COURT: Overruled. You may answer, sir.

3 A I was production supervisor.

4 Q And you stayed on in that position for how  
5 long?

6 A Oh, I'm going to say I had -- allow me to  
7 correct. They changed titles and fortunately in  
8 order to up the salaries, they made managers. So  
9 I was production manager and then the plant  
10 manager asked me if I could take over the  
11 personnel department. So for fifteen years  
12 approximately, I was production manager and  
13 personnel manager.

14 Q So for about fifteen years you held both  
15 positions?

16 A Yes, sir.

17 Q And do you know approximately when that  
18 started?

19 A I would say approximately 1965.

20 Q So were you production supervisor from  
21 when Owens-Corning bought it in '58 up till about  
22 '65? And then from '65 until your retirement, you  
23 were production supervisor or excuse me,  
24 production manager and personnel director?

1           A Sir, that is generally as I recollect it.  
2           It may be months different, but --

3           Q Now I'm going back to the beginning of  
4           your employment there.

5           A Yes.

6           Q You first worked at Berlin, then you  
7           worked at Sayreville, then you worked at Berlin  
8           for the rest of your career. Is that correct?

9           A Yes.

10          Q About how long were you at Berlin the  
11          first time?

12          A Well I started in Berlin on the 14th of  
13          February, 1947. And I went to Sayreville on the  
14          2nd of January, 1948. And I went to Sayreville to  
15          organize the union and to help train people on  
16          equipment that they had there that I was familiar  
17          with. I was there and returned home being a newly  
18          married person, I returned home on August 2nd.

19          Q Of the same year, of '48?

20          A Yes, yes, sir.

21          Q So you were in Sayreville about eight  
22          months?

23          A Just about even, um um.

24          Q The rest of the time, from '47 to '86 you

1 worked at the Berlin, New Jersey plant?

2 A '47 to '86? Other than the time out for  
3 Sayreville.

4 Q Oh I'm sorry, I think I said '86 wrong.  
5 What year did you retire? I had that wrong.

6 A '84.

7 Q '84. Okay. Were you at Berlin from '47  
8 to '84?

9 A Yes, sir.

10 Q Except for the eight months you told us  
11 about at Sayreville. Now during that time you met  
12 Jerry Helser, correct?

13 A Jerry Helser?

14 Q Yes?

15 A Yes, sir, yes.

16 Q When did you first meet Jerry?

17 A In Berlin.

18 Q And what brought the two of you together  
19 there at Berlin?

20 A Well Jerry worked at Berlin for awhile.

21 Q What jobs did he do at Berlin?

22 A I think Jerry was a product supervisor or  
23 shift supervisor.

24 Q So would he have been a shift supervisor

1 while you were a production manager?

2 A Yes.

3 Q Did he -- like was he immediately under  
4 you then?

5 A Yes.

6 Q And how long were you his boss?

7 A Oh I really don't remember, because Jerry  
8 moved along. Jerry had higher training than what  
9 was required for production supervision, and I  
10 really don't remember, sir.

11 Q Okay. And about how long did Jerry work  
12 at the Berlin plant?

13 A That I don't remember.

14 Q Did you see Jerry come to the plant from  
15 time to time even when he wasn't there as a  
16 regular full-time employee?

17 A Yes, I think I remember him coming in.

18 Q What was he doing on those visits?

19 A I don't know. He was there to see the  
20 plant manager and whatever they had -- whatever  
21 business they had was not mine.

22 Q When did you become a part of the  
23 management of the plant?

24 A When?

1 Q Yes.

2 A Um, --

3 Q Were you still in the union in '58 when  
4 Owens-Corning bought the plant?

5 A Oh no, no. I became a shift foreman right  
6 after I got back from Sayreville which was 1947.  
7 And then I went to assistant personnel director  
8 with Jim Gaylord (phonetic) who was the personnel  
9 director in probably 1948.

10 Q So from '48 on approximately, you were a  
11 part of management at the plant and never again  
12 were a member of the union?

13 A I think that is correct, sir.

14 Q Now you mentioned that you have had a  
15 chest x-ray approximately every year from 1947 to  
16 the present. Is that correct?

17 A Yes, sir.

18 Q Have you also had a physician physically  
19 examine you, you know, thump around on you and  
20 listen to your heartbeat and all that sort of  
21 thing at about the same time as the chest x-ray?

22 A No, sir, not since I was diagnosed with  
23 asbestosis.

24 Q When you were told you had asbestosis,

1           that is when the physical examinations stopped?

2           A   No.   That's when I started going to a  
3           chest, Dr. Sokolowski (phonetic), every year.   Now  
4           as a manager I did have a yearly physical  
5           examination.

6           Q   Okay.   So every year that you have worked  
7           for either Owens-Illinois or Owens-Corning, you've  
8           had a chest x-ray.   Right?

9           A   Yes, sir.

10          Q   And every year you've had a physical  
11          examination by a doctor at the company's expense.  
12          Is that correct?

13          A   No, sir.

14          Q   Okay.   When you first started there, how  
15          often were you having an examination by a company  
16          doctor?

17          A   Yearly.

18          Q   When did that stop?

19          A   I really don't remember.

20          Q   About how many do you remember having?

21          A   Oh, I'm going to say ten.   Used to go to  
22          the University of Pennsylvania and had a very  
23          thorough physical.   That was one of the reasons I  
24          stopped smoking.

1 Q Tell us more about that?

2 A Well, smoking and asbestosis don't go  
3 together. And the doctor told me there is two  
4 things wrong, you're overweight and you smoke. So  
5 I was using three packs of cigarettes a day. Not  
6 smoking three, I may light up and phone rang and  
7 lay it in the ashtray and burn an ash that long.  
8 But in three days I was finished smoking. And I  
9 just felt that -- I just felt that smoking wasn't  
10 a good thing to continue to do with a lung  
11 condition.

12 Q You stopped smoking at the same time as  
13 you were told that you had asbestosis?

14 A Um, just a few weeks after.

15 Q And what year was that?

16 A It was around, between 1965 and 1970.  
17 Somewhere in there.

18 Q Now, when you went to the University of --  
19 did you say Pittsburgh?

20 A Pennsylvania.

21 Q University of Pennsylvania, are their  
22 facilities in Philadelphia?

23 A Yes, sir.

24 Q Okay. When you went to the University



1 of --

2 A University Hospital.

3 Q Okay. When you went to University  
4 Hospital there in Philadelphia, did the other blue  
5 collar workers go with you?

6 A No, sir.

7 Q Did you first go to the University of  
8 Pennsylvania at Philadelphia as a management  
9 employee?

10 A Yes, sir.

11 Q Did the other management --

12 A Just department managers.

13 Q Did the other department managers go there  
14 for physicals also?

15 A Yes, sir.

16 Q When the department managers were going to  
17 University Hospital for their physicals, where  
18 were the production workers going for their  
19 physicals?

20 A Plant physician.

21 Q What was that person's name?

22 A Well to begin with, it was doctor -- um.  
23 I forget the first one. I will remember it. Then  
24 it was Dr. Schwartz. Dr. McNalley and -- the

1 name escapes me. The first -- the physician that  
2 was there when I started was Dr. Girard.

3 Q Did you ever meet a Dr. Charles Shook?

4 A Yes.

5 Q And how did you meet him?

6 A Well he was into the plant, and I met him  
7 on an elevator in Washington one time.

8 Q Now, was Charles Shook the plant physician  
9 when you first applied for work?

10 A No, he was not a plant physician.

11 Q What did Charles Shook have to do with  
12 Owens-Illinois?

13 A He was the corporate medical director.

14 Q So Shook didn't come out and give anybody  
15 physical examinations, correct?

16 A No, sir, not to my knowledge.

17 Q Now when you had that initial physical  
18 examination, was that probably by Dr. Girard did  
19 you think?

20 A Yes, sir.

21 Q What did Dr. Girard tell you about  
22 asbestos?

23 A The only thing I recall him saying was  
24 talking about the respirator program. And at the

1 time, silicosis was the big -- considered to be  
2 the big threat.

3 Q Well, do you remember Dr. Girard saying  
4 anything about asbestos when he gave you your  
5 first examination?

6 A No, sir, I don't. But I do remember the  
7 nurse talking to me about it.

8 Q And what was the nurse's name?

9 A I don't remember.

10 Q How long did she serve the plant there  
11 after you hired on?

12 A That I don't remember.

13 Q What did the nurse tell you about  
14 asbestos?

15 A She told me that it was a fibrous material  
16 that could be inhaled and if it went down in the  
17 lungs, you could not get it out and that it caused  
18 a pleural thickening in the lung.

19 Q So in 1947 when you first hired on with  
20 Owens-Illinois, Owens-Illinois' nurse told you  
21 that you could get pleural thickening from  
22 inhaling asbestos. Correct?

23 A Yes, sir.

24 Q Did she tell you it was a good thing or a

1 bad thing to get pleural thickening?

2 A I don't remember her saying it was good or  
3 bad. But I interpreted what she said it was a bad  
4 thing.

5 Q Did you know at that time what part of the  
6 anatomy got thick when you got this pleural  
7 thickening?

8 A What part of the anatomy got what?

9 Q Yes. When the nurse said now, Mr.  
10 Grimmie, if you hire on here, and if you inhale  
11 asbestos it's going to make you have pleural  
12 thickening, did you understand what she meant by  
13 your pleura was going to get thick?

14 A She said the lung.

15 Q She said the pleura was part of the lung?

16 A Yes.

17 Q Okay. And did she tell you what you might  
18 notice yourself if your pleura became thick?

19 A No, I have no recollection of her saying  
20 that. I didn't -- didn't know the pleura was part  
21 of the lung. I thought it was a condition.

22 Q I'm sorry, go ahead.

23 A Well if you look at my chest x-ray, you'll  
24 see the bottom of both lungs, you can see the line

1 where I'm contaminated. And the doctor called  
2 that pleural thickening.

3 Q And this nurse back in 1947 used those  
4 same words, pleural thickening, to describe to you  
5 what would happen if you breathed in any asbestos  
6 while you worked for Owens-Illinois. Is that  
7 right?

8 A As part of the respirator program, she  
9 said that respirators were needed to protect me  
10 from silica and asbestos and she said that  
11 asbestos was a lung disease that would reduce my  
12 breathing capacity.

13 Q Did she tell you how soon after you  
14 breathed in the asbestos you would have this --

15 A Now this was a registered nurse, not a  
16 doctor. A registered nurse. And I don't think  
17 that she knew any of this information. She knew  
18 what to tell me to try to prevent this from  
19 happening. But I think she would be stepping out  
20 of her territory if she were to diagnose me. So I  
21 have no recollection of her telling me. Her main  
22 objective was to instill in my mind the necessity  
23 for a respirator program in this particular area.

24 Q Did you apply for work in the dusty area?

1 A Apply for work?

2 Q Yes.

3 A I went where I was assigned.

4 Q Did the nurse say that you were going to  
5 be assigned to the dusty area?

6 A No. She didn't know where I was going to  
7 be assigned.

8 Q She just --

9 A It was up to the plant engineer where I  
10 was going to be assigned.

11 Q She just said in case you get assigned to  
12 the dusty area, then you will be asked to wear a  
13 respirator?

14 A I don't remember her saying that. She  
15 said your supervisor will provide you a respirator  
16 when you go into an area where it's needed. And  
17 that is the program we had set up.

18 Q Did the nurse tell you how soon after you  
19 inhaled the asbestos you would notice some  
20 consequence from it?

21 A I don't know if she told me, or whether I  
22 read it, but it takes about twenty years for it to  
23 show up.

24 Q I don't think anyone is quarreling with

1       that. But my question was, did the nurse back  
2       there at that time when you first applied for  
3       work, did she tell you how soon after you breathe  
4       in the asbestos you'll notice something bad from  
5       having breathed it in?

6           A I have no recollection of her telling me  
7       that.

8           Q When in your career did you learn that  
9       twenty years have to go by between when you  
10      breathe in the asbestos and you notice something  
11      going on in your body as a result of breathing it  
12      in?

13          A I don't know if it was when I read a  
14      report in the medical journal written by Dr.  
15      Selikoff from the Mount Sinai Hospital in New York  
16      where his work convinced the medical field that  
17      asbestos could cause lung cancer, and I think I  
18      read in there where it takes twenty years for the  
19      condition to develop.

20          Q How did you come into contact with the  
21      article written by Dr. Selikoff?

22          A I think the nurse showed it to me.

23          Q Do you remember that lady's name?

24          A Naomi Blatherwick (phonetic).

1           Q   And do you remember approximately what  
2   part of the sixties it was when she gave you a  
3   copy of the Selikoff article?

4           A   Around 1965.

5           Q   Had you heard about asbestos being a cause  
6   of cancer before 1965?

7           A   No, sir.

8           Q   So nothing about that first meeting that  
9   you had with the nurse alerted you to the fact  
10   that asbestos would cause cancer, correct?

11          A   No, sir.

12          Q   Is that true Mr. Grimmie?

13          A   That's true.

14          Q   And then throughout the rest of your  
15   journey with Owens-Illinois and then later with  
16   Owens-Corning, you heard nothing about asbestos  
17   being a cause of cancer until you got the Selikoff  
18   article in approximately 1965. Is that true?

19          A   That is true. Did anyone?

20          MR. WALKER: May I answer Your Honor?

21          THE COURT: No counsel.

22          Q   When Mr. Kelly came to your home there and  
23   was talking with you about Grimmie, could you go  
24   out to Illinois and help us out in this trial, did



1 he tell you that one of the issues in this case is  
2 when was it that Owens-Illinois learned that  
3 asbestos caused cancer?

4 A No, sir.

5 Q Did Mr. Kelly tell you that by the time  
6 you get there on the stand, Mr. Grimmie, there  
7 will already be a lot of documents in evidence  
8 showing that Owens-Illinois did know or should  
9 have known that asbestos was a cause of cancer  
10 clear back in the fifties?

11 A No, sir.

12 MR. O'HARA: Objection Your Honor,  
13 argumentative, misstates the prior testimony.

14 THE COURT: Overruled.

15 Q Did Mr. Kelly tell you that the day before  
16 you're on the stand, a fellow by the name of Kerby  
17 whom we have called in a lot of trials will  
18 testify that it was well known in the medical  
19 community that asbestos was a cause of cancer at  
20 least by the 1950s?

21 A No, he didn't tell me anything about Dr.  
22 Kerby.

23 Q What kind of fellow is this Kelly?

24 A Well I think he's a decent sort of guy.

1 MR. WALKER: Would this be a time to break,  
2 Your Honor?

3 THE COURT: Yes, it would be. Go ahead and  
4 put your note pads upside down. Step back to the  
5 jury deliberation room, get ready for lunch.

6 (THE FOLLOWING PROCEEDINGS WERE HAD OUT OF  
7 THE PRESENCE OF THE JURY.)

8 THE COURT: Jurors have left the courtroom.  
9 Let's take a lunch recess.

10 You can step down, sir. Thank you. Enjoy  
11 your lunch.

12 (THE NOON RECESS WAS TAKEN.)

13 THE COURT: Record reflect all parties have  
14 returned to the courtroom. Counsel ready to  
15 proceed?

16 MR. O'HARA: Yes Your Honor.

17 THE COURT: All right. Bring the jurors back  
18 in.

19 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE  
20 PRESENCE OF THE JURY.)

21 THE COURT: Be seated, record reflect jurors  
22 have returned to the courtroom.

23 THE COURT: You may continue.

24 BY MR. WALKER:

1           Q   Mr. Grimmie, I forgot to ask, this fellow  
2           Kelly, whom did he say he was working for?

3           A   I misstated. Riley.

4           Q   Riley is his name? Okay. And whom did  
5           Mr. Riley say he was working for?

6           A   For Joe.

7           Q   Riley said that he was a partner with Joe  
8           O'Hara?

9           A   Yes.

10          Q   The fellow that asked you the questions  
11          here first this morning?

12          A   Yes.

13          Q   Okay. Now we were talking about your  
14          physical examinations and you said once you became  
15          part of management, then you had an annual  
16          physical examinations for about ten years at the  
17          University of Pennsylvania in Philadelphia. Do  
18          you remember that?

19          A   Well I said all department managers had an  
20          annual physical examination. Just department  
21          managers.

22          Q   And when is the last time you had an  
23          annual physical examination at the University of  
24          Pennsylvania?

1 A I don't remember.

2 Q Would it have ended in the sixties or in  
3 the seventies?

4 A I honestly don't remember.

5 Q Okay. After you had your last examination  
6 at the University of Pennsylvania, where did you  
7 have your next company physical examination?

8 A From Dr. Sokolowski.

9 Q Where does he make his office?

10 A He makes his office in Pennsaukin.

11 Q For those of us that haven't been that far  
12 east, is that a town in New Jersey?

13 A Yes, it's between Camden and Berlin.

14 Q All right.

15 A He is a lung specialist.

16 Q And who pays for your appointments with  
17 that physician?

18 A Workers' compensation.

19 Q Um, how often do you see that doctor?

20 A I see him twice a year, which incidentally  
21 I see him Monday.

22 Q Okay.

23 A I have x-ray once a year, so I have to get  
24 x-rayed before I go to him on Monday. Then it's

1       six months I go back and he'll put me on a machine  
2       and check my breathing capacity.

3             Q   Okay.  Where do you get the x-ray?

4             A   At an x-ray facility operated by a group  
5       of doctors, one of which is Dr. Sokolowski.

6             Q   Okay.  And is that the place where you go  
7       in there, you see all the other old x-rays of your  
8       chest?

9             A   Yes, sir.

10            Q   And --

11            A   The --

12            Q   Go ahead.

13            A   Well when I go for the x-ray, they file my  
14       x-rays there.  They'll take the new one, put it in  
15       the file, give it to me and I will take it to the  
16       doctor's office, it's filed at the --

17            Q   Probably goes clear back to the forties  
18       when you had your first chest x-ray at  
19       Owens-Illinois?

20            A   Yes.

21            Q   Now, is there like a club or a group of  
22       you fellows that used to work at Berlin that you  
23       get together from time to time, like an old  
24       timers' club or anything of that nature?

1           A   No.   I tried to get something started when  
2           I found out that Owens-Corning was leaving Berlin,  
3           I thought we should have a group together so we'd  
4           have some sort of contact.   But I didn't have  
5           enough money to pull them together and no one else  
6           was -- no, there is no old timers' club.

7           Q   Okay.   The fellows that you do run into,  
8           where are they having their physical examinations  
9           now?

10          A   Dr. Sokolowski.

11          Q   He gives the exam for all the fellows that  
12          you know of?

13          A   Yes.

14          Q   And so far as you know, who pays for his  
15          examining the Berlin workers?

16          A   Workers' compensation.

17          Q   And like is that -- well who is workers'  
18          compensation?   What company is that?

19          A   Well it's an organization in New Jersey  
20          that each worker pays a certain percentage of his  
21          weekly earnings into workers' comp and then if  
22          you're hurt on the job in New Jersey, you can't  
23          sue your employer.   Workers' compensation takes  
24          care of your needs.

1           Q   And so far as you can tell, is workers'  
2   compensation providing for the annual physicals  
3   for all the old Berlin workers that you know of?

4           A   Yes, sir.

5           Q   And that includes an annual chest x-ray?

6           A   Yes, sir.

7           Q   Now, when you got your physical  
8   examination there at the University of  
9   Pennsylvania, how were the results reported to  
10   you?

11          A   I sat down and had a consultation with the  
12   doctor. And his report went to Dr. Shook I  
13   believe it was at the time in Toledo.

14          Q   And did the doctor there at the University  
15   of Pennsylvania, did he or she tell you about what  
16   could happen if you breathed in asbestos?

17          A   I don't recall that. The last time I  
18   remember the doctor sat down and he said there is  
19   two things wrong. You're too fat and you smoke.

20          Q   So you don't remember any of the doctors  
21   at the University of Pennsylvania talking to you  
22   about what might happen to you if you breathed in  
23   asbestos?

24          A   No.

1           Q   How about Dr. Shook? Did he ever come up  
2           to you and explain to you what could happen if you  
3           inhale asbestos?

4           A   Not to my knowledge, not to my  
5           recollection.

6           Q   How about Dr. McNally? He was the company  
7           doctor for awhile?

8           A   Yes, yes.

9           Q   Did Dr. McNally ever come up to you and  
10          explain what could happen from inhaling airborne  
11          asbestos?

12          A   Yes. Dr. McNally and I sat across the  
13          table from each other and discussed this. I hired  
14          Dr. McNally.

15          Q   When was that?

16          A   Wow. Dr. McNally followed Dr. Schwartz.  
17          Dr. Schwartz died. I don't remember the exact  
18          year.

19          Q   Do you think it might have been in the  
20          seventies or in the eighties?

21          MR. O'HARA: Objection Your Honor.

22          THE COURT: Overruled.

23          A   I think in the seventies.

24          Q   Did you ever meet a man named Jon Konzen?



1 A John Konden?

2 Q Konzen, K-o-n-z-e-n.

3 A We had a John Konden and a Charlie Konden  
4 work at the plant. One was a sheet metal worker  
5 and one was a machinist.

6 Q This fellow was a physician and he made  
7 his office in Toledo. Dr. Jon Konzen?

8 A Konzen?

9 Q Yes.

10 A Yes.

11 Q When did you first meet Dr. Konzen?

12 A I don't remember.

13 Q Did Dr. Konzen ever explain to you what  
14 happens when someone inhales airborne asbestos?

15 A Well, to me alone? When Dr. Konzen would  
16 come in, he would go to the plant manager. And  
17 the plant manager, if there was something that  
18 needed to be relayed, he would call all department  
19 managers in to the conference room. I don't  
20 specifically remember Dr. Konzen speaking on  
21 inhaling asbestos.

22 Q Now, do you remember a Dr. Billmaier?  
23 That is his last name, Billmaier together for the  
24 last name. Dr. Billmaier?

1           A   The name is familiar, I don't remember  
2   the --

3           Q   Before you came, the jury saw an exhibit,  
4   one of -- well they have seen a number of exhibits  
5   but one is 29 and it is dated May of 1978 and it's  
6   a memo about Dr. Billmaier having gone to the  
7   Berlin plant in 1978 and talked to the employees  
8   at several different shifts about asbestos and  
9   health.

10          Do you remember Dr. Billmaier coming there  
11   and talking --

12          A   I have no recollection of that.

13          Q   Talking to the whole shift at a time?

14          A   I have no recollection of that.

15          Q   Who was R.S. Hite?

16          A   Dick Hite was the plant manager.

17          Q   Would he have been in 1978?

18          A   I believe so, yes.

19          Q   How about W.H. Warmath?

20          A   Russ Warmath was in personnel.

21          Q   What was his position in 1978?

22          A   I believe he was personnel manager.

23          Q   Was he like your immediate boss?

24          A   No, I was production manager at the time.

1           Q   You didn't have a personnel responsibility  
2   in '78?

3           A   Right.

4           Q   And Dr. McNally, we have already talked  
5   about him. How about first initial B last name  
6   Neill?

7           A   B. Neill? Is there an RN following it?

8           Q   Well not in this memo, it's just  
9   N-e-i-l-l.

10          A   Well we had -- our plant nurse was Barbara  
11   Neill.

12          Q   Okay. And who was W.K. Hamilton?

13          A   The name again please.

14          Q   W.K. Hamilton?

15          A   Don't know that one.

16          Q   Now in this document, Owens-Corning says  
17   that Dr. Billmaier told the workers about asbestos  
18   and health and then, you know, some of the fellows  
19   asked questions and Dr. Billmaier made notes of  
20   the questions. One of the questions was does  
21   asbestosis lead to lung cancer and according to  
22   this memo Dr. Billmaier answered, "If a person has  
23   asbestosis, it indicates there has been exposure  
24   to asbestos. However, a person with asbestosis

1 does not have a greater chance of getting lung  
2 cancer than a fellow worker exposed to asbestos  
3 but without asbestosis."

4 Do you remember anybody at Owens-Corning  
5 telling you that?

6 A No, sir.

7 Q Do you remember anybody at Owens-Illinois  
8 telling you that?

9 A No, sir.

10 Q Do you remember anyone coming back to  
11 Berlin and correcting what Dr. Billmaier said some  
12 time after May of 1978? In other words somebody  
13 came back and said you know Billmaier, some of his  
14 speech was wrong and we need to get that  
15 corrected?

16 A No, I don't remember that. I hope they  
17 did, though.

18 Q In exhibit 29 it says that "It might be  
19 worthwhile to print these questions and answers up  
20 into a pamphlet and distribute the pamphlet to  
21 employees."

22 Did you ever get a pamphlet from  
23 Owens-Corning that explained the hazards of  
24 asbestos in sort of a question and answer form?

1 A Not to my recollection.

2 Q Did you ever see other employees around  
3 there that had such a pamphlet?

4 A Not to my recollection.

5 Q Well did you ever get a pamphlet from  
6 Owens-Corning that explained the hazards of  
7 asbestos even if it didn't use the question and  
8 answer method? Just in text just laid it all out?

9 A A pamphlet? No, sir.

10 Q How about any written document?

11 A Yes, there was bulletin board notices.

12 Q Okay. Were these on the bulletin boards  
13 in the plant itself?

14 A Yes, five locations.

15 Q Tell us what you saw on those bulletin  
16 boards about the relationship between asbestos and  
17 health?

18 A Just exactly what we have been talking  
19 about. If you inhale asbestos, it can eventually  
20 cause asbestosis and that could turn to I believe  
21 the term is melanoma, cancer.

22 Q When did you first see something on the  
23 bulletin boards at Berlin that said that asbestos  
24 could cause asbestosis?

1           A I haven't the slightest idea when I saw  
2           it.

3           Q Was it there when you went to work in '47?

4           A No, sir.

5           Q Can you give the jury any feel for the  
6           decade that you first saw on the bulletin boards  
7           of Berlin information that asbestos could cause  
8           asbestosis?

9           A I would say sometime in the 1960s.

10          Q Who puts the materials on the bulletin  
11          board that talked about asbestos and asbestosis?

12          A In that case it would have been the plant  
13          manager, went out over his signature.

14          Q And what was the plant manager's name?

15          A I -- hmm -- there was only eleven of them.  
16          I think it might have been Hite. Dick Hite.

17          Q Now when you first saw a bulletin board  
18          document that talked about asbestos, and  
19          asbestosis, did it say anything about cancer?

20          A I don't recall.

21          Q When the nurse gave you the article  
22          written by Dr. Selikoff, do you remember that?

23          A Yes.

24          Q Had you already seen something on the

1 bulletin board about asbestos causing cancer?

2 A I don't recall seeing anything. I think  
3 that was the first time that connection was made.

4 Q Did the plant manager put a copy of Dr.  
5 Selikoff's article on the bulletin board?

6 A Not to my recollection. The plant  
7 physician did.

8 Q What was his name?

9 A Henry Schwartz.

10 Q How many of the bulletin boards did Dr.  
11 Schwartz put a copy of Selikoff's article on?

12 A Five.

13 Q And about when did Dr. Schwartz do that?

14 A Sometime after I believe the middle of  
15 1965.

16 Q How long did the Selikoff articles --  
17 excuse me. How long did the Selikoff articles  
18 stay on each of the five bulletin boards?

19 A I don't know. The articles like that  
20 would have remained for at least two weeks.

21 Q If Jerry Helser was working there, it  
22 would almost be impossible for him not to see that  
23 article on at least one bulletin board, wouldn't  
24 it?

1 MR. CONSTANTINE: Objection, speculation.

2 A It would appear to me, yes.

3 THE COURT: Objection sustained.

4 Q Well in your opinion, Mr. Grimmie, given  
5 that there were five bulletin boards and they were  
6 all five in fairly prominent locations, weren't  
7 they?

8 A Yes, that is the purpose of bulletin  
9 boards.

10 Q I mean one was by the restroom, right?

11 A Yes.

12 Q And the others were by equally populated  
13 places, places where people had to go and  
14 sometimes lingered a minute and might be likely to  
15 read whatever is on the bulletin board?

16 A Yeah, like the men's room and the ladies'  
17 room.

18 Q So if the Selikoff article was on there in  
19 1965 and if Helser was there at the plant in '65,  
20 it's likely he would have seen it at least on one  
21 occasion?

22 MR. CONSTANTINE: Hold on Mr. Grimmie.  
23 Objection, speculation Your Honor.

24 THE COURT: Sustained.



1           Q   What is the next thing you saw on the  
2           bulletin board about the relationship between  
3           asbestos and human disease?

4           A   I haven't the slightest idea.

5           Q   Do you think anything else was posted on  
6           the bulletin board about asbestos and disease?

7           A   I don't remember.

8           Q   If anything else was posted you don't  
9           remember it. Is that correct?

10          A   That is correct.

11          Q   So far as this disease asbestosis that Mr.  
12          O'Hara was asking you about, can you give us some  
13          feel for what part of your body is affected by  
14          that?

15          A   Asbestosis?

16          Q   Yes?

17          A   My lung.

18          Q   Okay. And is that the same part of your  
19          body that has this thickening?

20          A   Yes.

21          Q   So asbestosis and pleural thickening are  
22          the same thing as it's been described to you.  
23          Correct?

24          A   That is as I understood it.

1           Q   And how many different times has a law --  
2           a doctor paid by Owens-Corning explained it to  
3           you?

4           A   Every six months for the past, since,  
5           what, 1968 I believe.

6           Q   Now the asbestos that Owens-Illinois was  
7           putting in Kaylo back in 1947 and '48, what type  
8           of asbestos was that?

9           A   There was several types.

10          Q   Do you remember the names of any of them?

11          A   One was amosite, one was chrysotile.

12          Q   Did the amosite come in bags that are  
13          similar to the bags here on exhibit 170-F?

14          THE COURT:   That is plaintiffs' exhibit?

15          MR. WALKER:   Plaintiffs' exhibit 170-F?

16          A   Burlap.   Yes.

17          Q   In fact, the amosite came to the Berlin  
18          plant in burlap bags that weighed about a hundred  
19          pounds is your recollection?

20          A   Yes.

21          Q   And did you sometimes pile the bags  
22          similar to what the piles are shown in Exhibit  
23          170-F?

24          A   No, we piled them on pallets.

1 Q Then used a forklift?

2 A So a forklift could pick them up and put  
3 them up on the batch floor.

4 Q Well when they arrived at your plant, they  
5 were in railroad cars. Is that right?

6 A Yes, sir.

7 Q And the fellows had to unload them out of  
8 the cars by hand, right?

9 A That is correct.

10 Q Where did they pile them before they put  
11 them on the pallets and moved them to the grinding  
12 machines?

13 A Before they -- no, they put them --  
14 immediately when they picked them up, they put  
15 them on the pallet.

16 Q Okay. So in your plant, when they were  
17 stacked ready to use, they were already on a  
18 pallet?

19 A Yes.

20 Q How much asbestos did you use a week at  
21 Berlin?

22 A Well, I have not the slightest idea. I  
23 can tell you how much asbestos went into a batch  
24 if you or anyone can figure that. But I have

1 heard Kaylo referred to as asbestos insulation.  
2 Thirteen percent of the solids in the batch was  
3 asbestos.

4 Q So far as how many train cars came in a  
5 week or a month, it wasn't part of your job to  
6 order that, is that correct?

7 A No, that was the purchasing agent.

8 Q Now, what did the bags of asbestos say  
9 would happen to you if you breathed any of the  
10 dust that came off the asbestos?

11 A I don't remember them saying anything  
12 until later on after Dr. Selikoff.

13 Q What did they say then?

14 A Harmful to your health.

15 Q Did it explain what part of your body  
16 would be harmed?

17 A Not that I recall. There is only so much  
18 you can put on burlap.

19 Q Did it use the word cancer?

20 A Not that I recall.

21 Q What did the boxes of Kaylo say would  
22 happen to someone if they breathed the dust given  
23 off by Kaylo when the boxes went out of the Berlin  
24 plant?

1           A   Um, in the beginning we were stenciling --  
2           I forget the exact wording, harmful if inhaled.  
3           And then it became art work on the box. But --

4           Q   Now when you say in the beginning, when  
5           was it that either -- when was it that  
6           Owens-Illinois first put on the box that the dust  
7           from Kaylo would be harmful if inhaled?

8           A   I think when it became known that asbestos  
9           could cause lung cancer.

10          Q   So when you learned that asbestos could  
11          cause lung cancer, that is when whoever owned the  
12          plant started putting something on the box that  
13          asbestos could be harmful. Correct?

14          A   I believe so.

15          Q   And you learned about asbestos and cancer  
16          in 1965?

17          A   Yes, sir.

18          Q   So then would it be correct that  
19          throughout the time that you worked there for  
20          Owens-Illinois in the forties and fifties, there  
21          was nothing on the box about the dust causing  
22          harm?

23          A   That is as I recall.

24          Q   And then throughout the rest of the

1       fifties and the first half of the sixties when you  
2       worked there for Owens-Corning, there was nothing  
3       on the box that talked about harm?

4             A   That is as I recall.

5             Q   Who at Owens-Corning told you what  
6       Owens-Corning just learned that caused it to start  
7       putting something on the box?

8             MR. CONSTANTINE:  Objection, compound, calls  
9       for speculation.

10            THE COURT:  Overruled.  You can answer.

11            A   I thought I answered that.  Dr. Schwartz  
12       had a medical journal and he gave it to the nurse  
13       and she passed it around.  She passed it to me and  
14       I passed it around.

15            Q   You did tell us that about the article.  I  
16       was now over on the boxes that the Kaylo was  
17       shipped out in.  Do you remember that?

18            A   Yes.

19            Q   Okay.  You had worked there for about  
20       eighteen years and the boxes didn't say anything  
21       about harm.  Remember, from '47 to '65 or '66?

22            So for the first eighteen years you were  
23       there, there was nothing about harm on the boxes.  
24       Do you remember that?

1 A Okay.

2 Q Okay. Then all of the sudden  
3 Owens-Corning decided to start stamping something  
4 on the box talking about harm. Remember that?

5 A Yes.

6 Q Okay. And of course then that was  
7 changed, right?

8 A Changed.

9 Q I say that was -- in other words things  
10 had been going one way for seventeen or eighteen  
11 years and now all of the sudden the boxes say  
12 something about the dust coming from the product  
13 being harmful?

14 A Yeah, I think that is better than ignoring  
15 the condition.

16 Q And my question was, when the fellows that  
17 decided to put this on the box were talking with  
18 you about it, what did they say had come into the  
19 life of Owens-Corning that caused it to put this  
20 stamped material on the box?

21 A Why do you think they would talk to me  
22 about it?

23 Q I'm just asking you if they did talk to  
24 you about it?

1           A   The production planning manager would  
2           issue instructions on what was produced, how it  
3           was packaged and where it went in the warehouse.  
4           If he wanted something on the carton, he would be  
5           the one to put the instruction in. His name is  
6           Bill Justice. Excuse me. Was Bill Justice.

7           Q   So your recollection is that Bill Justice  
8           is the fellow who decided to put this language on  
9           the box?

10          A   No.

11          Q   Who did decide?

12          A   I do not know. All I'm saying is someone  
13          probably told Bill Justice we want something on  
14          the carton saying that there is a hazard here.

15          Q   Did the carton ever say that the dust was  
16          hazardous?

17          A   I forget what the wording was.

18          Q   Those maintenance fellows that went into  
19          the baghouse, you know they went down into the  
20          baghouse and shook the dust out of the dust  
21          collectors, do you remember telling us about that?

22          A   Yes.

23          Q   What were their names?

24          A   What were their names?



1 Q Yes?

2 A Frank Kafao (phonetic) and his brother,  
3 Paul Kafao. They're the only two that I remember.

4 Q How are Frank and Paul getting along now?

5 A How are they getting along?

6 Q Yes?

7 A Well it's hard to tell, they're both dead.

8 Q Right. And when did they die?

9 A Some years ago. They were up in years.

10 Q How old were they when they died?

11 A Oh I think Paul was the oldest. Paul was  
12 probably between seventy-five and eighty, and  
13 Frank was a few years younger.

14 Q This photograph that was taken here had  
15 you fellows standing around the saw and I think  
16 you saw the saw was used, what, to kind of trim up  
17 the ends of the Kaylo pipe covering?

18 A Trim the legs.

19 Q Trim the long horizontal cut?

20 A That is correct.

21 Q Okay. Now of course when that saw went  
22 through the Kaylo, it gave off dust, didn't it?

23 A Yes.

24 Q So the saw was one of the dusty areas of

1 the plant. Right?

2 A It would have been if we hadn't had a dust  
3 collecting system.

4 Q So the saw wasn't one of the areas where  
5 employees were ordered to wear a respirator?

6 A That is correct, it was not required.

7 Q I see in this picture none of you fellows  
8 are wearing a respirator, none of the ones in the  
9 photograph. Do you see -- I assume it looks the  
10 same to you?

11 A Um-hmm.

12 Q When you went out in the plant there in  
13 the fifties and sixties, did you wear a  
14 respirator?

15 A No, sir.

16 Q Well did any of the management people wear  
17 a respirator?

18 A Not that I recall.

19 Q Now when you were in the service you saw  
20 that one of the ways that officers lead troops is  
21 by example. Right?

22 A I beg your pardon?

23 Q When you were in the military service, you  
24 observed that one of the ways that officers lead

1       their troops is by example.   Correct?

2           A   Sometimes.

3           Q   And when did you see management of  
4       Owens-Corning showing the workers by example that  
5       they needed to wear a respirator to protect them  
6       from some hazard that was in the air of the plant?

7           A   I didn't.

8           Q   The jury has seen an exhibit, it's marked  
9       282 and it's dated April and May of 1958.   Now you  
10      were at Berlin in April and May of 1958.   Correct?

11          A   Yes.

12          Q   This document for example refers to you as  
13      being the production superintendent.   Does that  
14      sound right?

15          A   Yes, sir.

16          Q   And it is one of those instances  
17      where Aetna came into the plant; and two of these  
18      five fellows are employees of Aetna, aren't they,  
19      in the photograph?

20          A   I think so, Bernie and Paul Shoe.

21          Q   Two of the fellows from Aetna came into  
22      the plant in April and May of 1958 and they  
23      commented about the practices of using a broom to  
24      sweep up the dust.   Were Owens-Illinois people

1 told to sweep up asbestos dust with brooms in  
2 1958?

3 A Asbestos dust?

4 Q Perhaps I should call it Kaylo dust?

5 A Well, they were to clean work areas, yes.

6 Q And did they use brooms -- were they  
7 provided brooms to do that?

8 A Yes.

9 Q And then also Aetna talks about blowing  
10 down dust off of the overhead beams and so forth.  
11 Do you remember doing that there at the plant  
12 where the workers used compressed air and blew the  
13 dust off the flat surfaces?

14 A I remember doing that during the strike,  
15 yeah.

16 Q What strike was that?

17 A When the union struck the plant.

18 Q And what -- why did the union strike the  
19 plant?

20 A Well, perhaps you could answer that  
21 question. We were in the negotiations. President  
22 Nixon had put a freeze on wages, and the company  
23 offered the union what the government regulation  
24 was and they turned it down. And they struck for

1       92 days. And then they came back to work for the  
2       very same thing that they struck.

3               Q Now this is a strike you're talking about  
4       during the time that Richard Nixon was President  
5       of the United States?

6               A Yes, sir.

7               Q Okay. I was talking about an earlier  
8       period, 1958 where Aetna reported that  
9       Owens-Illinois had been blowing dust down off of  
10      the overhead beams and so forth with compressed  
11      air. Do you remember that?

12              A I don't remember it, but I don't doubt it.

13              Q Okay.

14              A It may have been a plant clean up which  
15      gets everything cleaned up and start from scratch.

16              Q The jury has also seen exhibit 264. It  
17      shows fellow running a saw through a piece of  
18      Kaylo. Do you see that picture there inside of  
19      plaintiffs' exhibit 264?

20              A Yes.

21              Q And you see how the artist depicted some  
22      lines coming down from that saw where dust -- it  
23      appears that he's trying to portray dust coming  
24      off? Is that the way you remembered what happened

1       when Kaylo pipe covering or block was cut with a  
2       power saw that gave off dust?

3           A   No, sir, you couldn't see that. The dust  
4       collector would grab it before you could see it.

5           Q   So actually --

6           A   This is a handled saw.

7           Q   What were the fellows sweeping up then  
8       with the brooms?

9           A   What were they sweeping up then with the  
10      brooms?

11          Q   Yes, sir.

12          A   Dirt from molds.

13          Q   What was that dirt made of?

14          A   Well it could have been dried Kaylo. It  
15      could have been wet Kaylo. I don't know. My wife  
16      sweeps the kitchen quite frequently and I don't  
17      ask her what the dirt is made up of.

18          Q   The jury has seen exhibit 284 --  
19      plaintiffs' exhibit 284 where Owens-Illinois said  
20      that Kaylo was non-irritating to the skin. Did  
21      you ever find Kaylo to be irritating to the skin?

22          A   No, sir.

23          Q   Now what did Owens-Illinois tell you as to  
24      whether Kaylo was toxic or not?

1 A Toxic?

2 Q Yes.

3 A The only thing that we were told was  
4 inhaling.

5 Q Inhaling what, Mr. Grimmie?

6 A Kaylo dust.

7 Q You were told by Owens-Illinois that if  
8 you inhaled Kaylo dust, it could be toxic to you?

9 A Asbestos, silica.

10 Q Am I correct though that Owens-Illinois  
11 told you that Kaylo dust was toxic?

12 A I don't understand toxic. To me toxic is  
13 getting a bad bottle of booze or something like  
14 that. You can walk up to a piece of Kaylo and  
15 pick it up and it's not going to bite you. And  
16 chances are it won't harm you unless you scrape it  
17 or disturb it; and then it takes from what I have  
18 been told a certain amount or more to become  
19 harmful to you.

20 Q The jaws of Kaylo close fairly slowly,  
21 don't they?

22 MR. O'HARA: Objection Your Honor,  
23 argumentative.

24 THE COURT: Sustained.

1 A No, sir.

2 Q Well --

3 A Is there an objection? Can I answer that?

4 THE COURT: No, don't answer that sir.

5 Q Do you remember you talked about the  
6 posters that were there on the wall at the Berlin  
7 plant?

8 A On the wall and bulletin boards.

9 Q Walls, bulletin boards and so forth?

10 A Yes.

11 Q What did those posters say about the  
12 effect of asbestos or Kaylo dust being in the air  
13 of the plant?

14 A I don't remember the exact wording, but  
15 basically inhaling Kaylo dust can be harmful to  
16 your health.

17 Q There were posters like that on the walls  
18 of the plant at Berlin, New Jersey? Is that your  
19 testimony?

20 A Were there posters like that? Yes.

21 Q Were there posters on the walls of the  
22 plant at Berlin, New Jersey that said inhaling  
23 Kaylo dust can be harmful to your health?

24 A Yes.



1 Q When did they first appear?

2 A I don't remember.

3 Q Were there any there in the 1940s, the  
4 first three years that you worked there?

5 A I don't remember that.

6 Q Were there any there in the 1950s, the  
7 next ten years that you worked there?

8 A I would say yes in the 1950s.

9 Q When did the signs go up at the Berlin  
10 plant saying Kaylo dust was dangerous?

11 A Kaylo dust is dangerous?

12 Q Yes.

13 A I thought that was the last question you  
14 asked. You're repeating the question?

15 Q Do you remember when you first saw a sign  
16 on the wall of the Berlin, New Jersey plant that  
17 said Kaylo dust was dangerous?

18 A I believe sometime in the 1950s.

19 Q Before you saw the Selikoff article,  
20 correct?

21 A Yes.

22 Q When you saw that sign, did you get close  
23 enough that you could read all the words?

24 A Yeah, there wasn't many words on it. It

1 was a big poster.

2 Q Tell us again as best you remember what  
3 the words were?

4 A Kaylo dust can be harmful to your health.  
5 Wear your respirator.

6 Q Did the sign explain what harm would come  
7 from Kaylo dust?

8 A Not that I recall.

9 Q Did the sign explain when the harm would  
10 come so far as you remember?

11 A Not that I recall.

12 Q Did the sign use the word asbestosis to  
13 explain the harm?

14 A Not that I recall.

15 Q Did the sign use the word cancer to  
16 explain the harm?

17 A No. We knew nothing about association  
18 with cancer until 1965.

19 Q So far as you know, Owens-Illinois never  
20 knew anything about cancer during the time that  
21 you worked for Owens-Illinois, because  
22 Owens-Illinois never told you anything about  
23 cancer. Right?

24 A Did Owens-Illinois know anything about it?

1 Q That is my question.

2 A Did I mention to you that every hourly  
3 employee got a physical examination each year?

4 Q I think you did.

5 A Every hourly, not only salary. Every  
6 hourly employee got a physical examination by the  
7 plant physician and he explained to them what the  
8 situation was.

9 Q Oh. When you were an hourly employee, did  
10 the physician that gave you a physical examination  
11 explain to you what could happen from breathing  
12 the airborne dust in the plant?

13 A Yes, I could get asbestosis.

14 Q Okay. And the first physician was  
15 Schwartz did you say?

16 A No, sir. Dr. Girard.

17 Q Girard, thank you. And did Dr. Girard  
18 tell you how long after you inhaled the material  
19 in the plant's air it would take for you to become  
20 sick?

21 A I don't recall that. I don't know if they  
22 knew that then.

23 Q Well let's take it one step at a time.

24 Do you remember Dr. Girard telling you how

1 long after you inhaled the dust that it might make  
2 you sick?

3 A I don't recall him telling me that.

4 Q When did Owens-Illinois learn the length  
5 of time it takes between inhaling the type of dust  
6 that was at the Kaylo plant and when the worker  
7 comes down with disease?

8 A I don't know.

9 Q Your thinking was as soon as  
10 Owens-Illinois learned about the details of what  
11 bad could happen from inhaling Kaylo dust, it told  
12 all of the members of it's workforce. Correct?

13 A Yes.

14 Q And the same is true --

15 A By bulletin board or poster communication.

16 Q And of course by telling each worker at  
17 the annual physical by the company doctor?

18 A That is correct.

19 Q Which was first Dr. Girard and then Dr.  
20 Schwartz and then Dr. McNally?

21 A Right.

22 Q And had Dr. McNally known about the  
23 relationship between asbestos and cancer before  
24 '65, he would have told the workers as soon as he

1       knew about it, right?

2           A   I can't answer for Dr. McNally.

3           Q   When you interviewed Dr. McNally for his  
4       job there, did he tell you about the relationship  
5       between asbestos and disease or did you tell him?

6           A   I didn't interview him. He was my family  
7       doctor. I just hired him on.

8           Q   I see. You just asked him if he would be  
9       willing to work for the plant?

10          A   Yes.

11          Q   Okay. But did you ever discuss asbestos  
12       and disease with Dr. McNally?

13          A   There were times when he would get in his  
14       medical journals, there would be articles on  
15       asbestosis and he would show them to me and the  
16       plant nurse as did all the doctors. But there was  
17       never a sit down classroom that we are going to  
18       give you a crash course in medicine.

19          Q   Um-hmm. And how was it that you then  
20       conveyed this information on to the hourly  
21       workers?

22          A   By poster and bulletin board and the plant  
23       physician talking to them at their annual physical  
24       time.

1           Q Did you ever sit in on any of those plant  
2 physician discussions to see what it was that Dr.  
3 McNally told the workers?

4           A Privileged communication.

5           Q Well, who claims it is confidential what  
6 Owens-Corning told its employees about the health  
7 hazards of asbestos?

8           A What the doctor discussed with his  
9 patient, we did not stick our nose into.

10          Q How did Owens-Corning make sure that the  
11 doctor was telling the patient all the patient  
12 needed to know about the health hazards --

13          A There is such a thing as trust.

14          Q Like employees trust their employer?

15          A Yes.

16          Q You were telling us a little bit about why  
17 it is that Owens-Corning bought the plant from  
18 Owens-Illinois, and what you said was that  
19 Owens-Corning was already in the insulation  
20 business before it started distributing Kaylo in  
21 '53. Right?

22          A That was my understanding, yes.

23          Q But there was some jobs where  
24 Owens-Corning wasn't currently able to sell the

1 entire range of products that would be needed to  
2 finish a project. Correct?

3 A That was my understanding of the thought  
4 process.

5 Q So Owens-Corning, who in the forties were  
6 talking about the evils of asbestos started  
7 selling asbestos-containing Kaylo in the fifties  
8 so that it could sell an entire job?

9 MR. CONSTANTINE: Well objection, misstates  
10 whatever it is Mr. Walker --

11 THE COURT: Sustained.

12 Q Actually this worked out all right from  
13 the Owens-Corning standpoint, because eventually  
14 it became the largest insulation supplier in the  
15 United States. Right?

16 MR. CONSTANTINE: Objection, relevance.

17 A Well it probably earned it.

18 THE COURT: Overruled.

19 Q Do you remember talking about you yourself  
20 wore a device that captured some air and pulled it  
21 through a filter down here by your hip?

22 A Yes, sir.

23 Q Now, when you got into management -- well  
24 let me ask a different question. When you were

1 one of the workers who wore that device, did  
2 someone bring you the results of the analysis  
3 after the stuff was counted on the filter?

4 A No, sir.

5 Q Well how is it that you learned whether  
6 there was enough or too much or too little of this  
7 dust in the air?

8 A The report went to the plant manager.

9 Q And did the plant manager tell you how  
10 much dust was in the air?

11 A The plant manager would pass it onto the  
12 department manager.

13 Q Did the --

14 A Usually the plant engineer would be  
15 brought in if there was a problem, and they would  
16 engineer the problem out.

17 Q And when you were wearing this device in  
18 the forties, did they bring you a copy of the  
19 results of the test for the device that you wore?

20 A No. I thought I just answered that, no.

21 Q Was there ever a point in your career  
22 where the results of these dust sampling efforts  
23 were communicated to you?

24 A Yes. The plant manager would get the



1 reports and he would go over them with me and the  
2 plant engineer and if there was a problem area,  
3 the engineer department would go out and construct  
4 new equipment to solve the problem.

5 Q Take a look at exhibit 282. Is this the  
6 type of report that you got and -- let me ask you  
7 a different question. Do you remember getting  
8 that report in 1958?

9 A No.

10 Q Did you get reports like that in the  
11 fifties?

12 A I don't remember that report.

13 Q It talks about you being part of the group  
14 there when the dust was collected. It says that  
15 in the first paragraph. Did you notice that?

16 A Yes.

17 Q Well was it your recollection that whoever  
18 collected the dust, they didn't report the results  
19 to you?

20 A That is correct. It would have gone to  
21 the plant manager.

22 Q Where are the results of the other tests  
23 if there were tests done in the forties and  
24 fifties? Where are those results?

1 A Where are they?

2 Q As far as you know? I mean, does  
3 Owens-Illinois or Owens-Corning still have them as  
4 far as you know?

5 A No, I think all of that stuff has been  
6 scrapped except medical records when they closed  
7 -- the plant is closed. You know that.

8 Q The Berlin plant is closed?

9 A I'm sure you know that.

10 Q Were you there when it was closed to see  
11 what was thrown away and what wasn't?

12 A No, I was retired before that happened.

13 Q Okay. Well somehow this 1958 record is  
14 still surviving and I wondered if you knew  
15 anything about the other records that were made in  
16 the fifties and the records made in the forties  
17 and so forth?

18 A No, I don't.

19 Q Now the posters that were on the wall that  
20 said breathing Kaylo dust can be harmful, did they  
21 stay up into the sixties?

22 A I don't think so.

23 Q They were in the fifties, but came down  
24 before 1960?

1           A   Yeah, I think they would become tattered  
2           and torn and just sort of housekeeping bit would  
3           eliminate them.

4           Q   Well, were new posters erected when the  
5           old ones became tattered and torn?

6           A   There was bulletin board announcements  
7           would go up periodically.

8           Q   In the 1960s, were there any posters on  
9           the wall of the plant that said Kaylo dust can be  
10          hazardous to your health?

11          A   I don't know if there was posters on the  
12          wall.

13          Q   How about in the 1970s, were there any  
14          posters on the wall at the Berlin, New Jersey  
15          plant?

16          A   I don't recall.

17          Q   Saying that Kaylo dust can be hazardous to  
18          your health?

19          A   I don't recall.

20          Q   Now the jury has seen exhibit 265 where  
21          Mr. Staelin sent some articles on asbestos dust to  
22          Mr. Hazard in September of 1941. Did Mr. Hazard  
23          ever share those articles with you?

24          A   In 1941?

1           Q Take a look at that exhibit if you want.  
2           It is a letter from Mr. Staelin to Mr. Hazard  
3           saying thanks for letting us borrow these two  
4           articles about asbestos, and it's written in 1941?

5           A So the articles must have been written  
6           before 1941.

7           Q That is the assumption I made. And my  
8           question is, did Mr. Hazard ever loan them to you?

9           A No sir.

10          Q Did Mr. Hazard describe to you how  
11          Owens-Illinois sent Kaylo dust off to a place  
12          called Saranac Lake, New York, and had certain  
13          experiments run there with animals other than man?

14          A No. Mr. Hazard did not.

15          Q Have you ever learned about the animal  
16          experiments that were done at Saranac Lake?

17          A No. I knew that samples were sent to  
18          Saranac Lake, but I didn't know there was animal  
19          experiments. That is the Trudeau Laboratory  
20          you're speaking of?

21          Q The Trudeau Foundation is a part of what  
22          is known as the Saranac Laboratory, yes, sir.  
23          When did you first learn that Kaylo dust had been  
24          sent to Saranac or Trudeau?

1 A I don't remember when I first learned.

2 Q Was it in the forties or fifties?

3 A I don't remember when I first learned.

4 Q And when you first learned, was it at one  
5 of the depositions or did you learn about it  
6 before the depositions?

7 A No, I think I learned of it somewhere  
8 through the personnel department.

9 Q And what did you learn was the reason that  
10 Owens-Illinois sent the Kaylo dust to Saranac  
11 Lake?

12 A As I recall, they were asking for tests to  
13 be made on the effects of Kaylo dust and asbestos  
14 to the lung.

15 Q And were you given any information as to  
16 the nature of those tests?

17 A It was out of my area.

18 Q Were you told that Saranac had exposed  
19 animals other than man to this Kaylo dust and then  
20 allowed the animals to live for various lengths of  
21 time, killed them and looked at their lungs to see  
22 if they were having any lung disease as a result  
23 of inhaling the Kaylo dust?

24 A No, that is news to me.

1           Q So today is the first you learned about  
2 the animals inhaling the Kaylo dust at Saranac.  
3 Correct?

4           A Yes, sir.

5           Q The jury has plaintiffs' exhibit 263 where  
6 Arthur Vorwald of Saranac writes to U.E. Boews  
7 (phonetic). Did you ever know Boews?

8           A Yes.

9           Q And among other things, he concludes his  
10 letter by saying, "I realize that our findings  
11 regarding Kaylo are less favorable than  
12 anticipated. However, since Kaylo is capable of  
13 producing asbestosis, it is better to discover it  
14 now in animals rather than later in the industrial  
15 workers."

16           Today is the first you learned that Kaylo  
17 dust caused asbestosis in animals. Correct?

18           A Yes.

19           Q Plaintiffs move into evidence OI 513 and  
20 OI 516.

21           THE COURT: I don't have any copies of those.  
22 Any objection?

23           MR. O'HARA: No Your Honor, we were going to  
24 move them anyway.

1 MR. CONSTANTINE: Objection, hearsay,  
2 authentication as to Owens-Corning, Your Honor.

3 MR. WALKER: Let me ask a couple questions if  
4 I may, Judge.

5 THE COURT: All right.

6 Q Mr. Grimmie, the jury has seen exhibit 283  
7 which is the contract between Owens-Corning and  
8 Owens-Illinois regarding the sale of the Berlin  
9 plant and the Kaylo line. And of course you were  
10 there at Berlin -- I mean literally you worked for  
11 Owens-Illinois and the next day you worked for  
12 Owens-Corning. Correct?

13 A That is correct.

14 Q And were you aware that the records stayed  
15 there at the facilities? I mean Owens-Illinois  
16 didn't move all the paper out of the plant the day  
17 it sold the plant, correct?

18 MR. CONSTANTINE: Objection, compound,  
19 leading.

20 THE COURT: Sustained.

21 MR. CONSTANTINE: Well I will withdraw as to  
22 leading but as to compound I object.

23 MR. WALKER: I will ask a different question.

24 Q Mr. Grimmie, you had an office job in

1 1958. Correct?

2 A Office job?

3 Q Well you had a desk that was considered  
4 your desk in 1958. Correct?

5 A Yes.

6 Q And you had some papers that you had  
7 gathered together in the manner that you wanted to  
8 gather them. Correct?

9 A Yes.

10 Q Other people with managerial  
11 responsibilities had also gathered together  
12 certain papers which they wanted, correct?

13 MR. CONSTANTINE: Objection, speculation.

14 A I would imagine so.

15 THE COURT: Overruled.

16 Q Now the day it was last called an  
17 Owens-Illinois plant, the papers you had were  
18 still there. Correct?

19 A Yes.

20 Q And the next morning when it was --  
21 started being called an Owens-Corning plant, the  
22 papers you had when you were an Owens-Illinois  
23 employee were still at your desk, correct?

24 A Yes.



1 Q Pardon?

2 A Yes, sir.

3 Q So whatever it was that Owens-Illinois had  
4 in 1950 and 1951 in terms of documents,  
5 Owens-Corning had them in 1958?

6 MR. CONSTANTINE: Hold on Mr. Grimmie.  
7 Objection, speculation Your Honor.

8 THE COURT: Sustained.

9 Q Do you know of any documents that were  
10 prepared during the Owens-Illinois period that  
11 Owens-Corning destroyed?

12 MR. CONSTANTINE: Objection. Speculation.

13 THE COURT: Overruled.

14 A Would you please repeat that question?

15 Q Do you know of any documents that were  
16 prepared during the time that Owens-Illinois ran  
17 the Berlin plant which would include the late  
18 forties and the first eight years of the fifties  
19 which documents were then later destroyed by  
20 Owens-Corning?

21 A What, sir, do you mean by documents? You  
22 mean the attendance record of an employee? Is  
23 that a document?

24 Q I would say so.

1           A   I have -- I have no recollection of that  
2           ever happening.

3           Q   So you don't remember Owens-Corning  
4           destroying any of the documents that it received  
5           from Owens-Illinois, do you?

6           MR. CONSTANTINE:  Objection, assumes a fact  
7           not in evidence.

8           MR. WALKER:  Just asking what he remembers  
9           Your Honor.

10          THE COURT:  Overruled.

11          A   No.

12          MR. WALKER:  I reoffer OI 513 and 516.

13          MR. CONSTANTINE:  Judge I object to 513 and  
14          516 on hearsay and authentication grounds.

15          MR. WALKER:  Let me have another shot at it  
16          Judge.

17          MR. CONSTANTINE:  Well could we approach,  
18          Your Honor?

19          THE COURT:  Counsel.

20          (THE FOLLOWING PROCEEDINGS WERE HAD AT THE  
21          BENCH OUT OF THE HEARING OF THE JURY.)

22          MR. WALKER:  Judge, I'm not ready to call it  
23          quits yet.  I think I can do more to authenticate  
24          this.

1 THE COURT: That's fine.

2 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE  
3 PRESENCE OF THE JURY.)

4 THE COURT: Let's take a break at this time.  
5 Ladies and gentlemen, go ahead and close your note  
6 pads up and step back to the jury deliberation  
7 room and relax for a few minutes.

8 (THE FOLLOWING PROCEEDINGS WERE HAD OUT OF  
9 THE PRESENCE OF THE JURY.)

10 THE COURT: Record reflect jurors have left  
11 the courtroom.

12 Mr. Grimmie, you can step down again, take a  
13 break, relax.

14 Record reflect Mr. Grimmie has left the  
15 courtroom. Why don't we take a fifteen minute  
16 break.

17 MR. CONSTANTINE: I just -- I had initially  
18 asked to approach because I made an objection.  
19 Mr. Walker was given an opportunity, Your Honor  
20 didn't rule on the objection. Mr. Walker  
21 indicated that he wanted to ask some more  
22 questions, the court allowed him to do that. He  
23 asked some more questions, I lodged another  
24 objection, the court didn't rule. Mr. Walker said

1 I want to ask some more questions. The court was  
2 intend -- I would presume intending on allowing  
3 Mr. Walker to do that and I think that Your Honor  
4 can cut really to the quick, because  
5 authentication and hearsay are two objections that  
6 we are familiar with and unless this gentleman was  
7 the custodian of records and can testify as to the  
8 authenticity of the document, then I don't see how  
9 it is that Mr. Walker can get the document  
10 authenticated through this gentleman who  
11 apparently worked in personnel and production.

12 So I guess I would like a ruling from the  
13 court on my objections to 513 and 516.

14 MR. WALKER: Judge I don't think counsel has  
15 that standing to say that he determines when I am  
16 done authenticating it. I have indicated I think  
17 I can do more to authenticate it and boy, my  
18 clients join with Mr. Constantine in this constant  
19 struggle against these forged documents. That is  
20 probably the only thing we have in common, but the  
21 man must have a history to know a forgery when he  
22 sees it and he's seen one and therefore we are  
23 trying to help him stamp out this admission of  
24 forged documents and we are going to try to do

1 more to authenticate 513 and 516. Or is his  
2 position that he as the opponent of the party  
3 introducing a document chooses when to cut off the  
4 evidence of authenticity? He does happen to be  
5 wrong on that point.

6 MR. CONSTANTINE: Judge, just let me respond  
7 since this is my motion. Mr. Walker just uttered  
8 some words about forgeries and all that, I just  
9 for the life of me, I don't know what he's talking  
10 about and I don't know if anybody else does  
11 either. But we are talking about --

12 THE COURT: Well what does authentication  
13 mean in your vocabulary?

14 MR. CONSTANTINE: Well, Your Honor,  
15 authentication, to authenticate a document,  
16 usually you have to either -- most of the times in  
17 most cases counsel just say here are my documents,  
18 here are your documents, we put them in in this  
19 search for the truth, we just put our documents in  
20 and they argue their position and we argue our  
21 position. Now the truth to some degree is  
22 regulated by that which the court admits and one  
23 of the hurdles an attorney must pass is  
24 authenticity which I'm struggling with on my

1 documents in the 600 series.

2 Now this document 513 wasn't authored by the  
3 gentleman on the witness stand, doesn't seem to  
4 have been received by him, he wasn't -- hasn't  
5 testified that he was the custodian of records in  
6 1950 or at any other time and the same is true for  
7 516. So my objection is that they cannot be  
8 authenticated through this witness and they are  
9 hearsay as to Owens-Corning.

10 THE COURT: That may be right, I don't know.  
11 But the attorney has an opportunity to attempt to  
12 authenticate it. Give him a reasonable  
13 opportunity, if he can't, he can't.

14 Let's take a fifteen minute recess.

15 (A RECESS WAS TAKEN.)

16 THE COURT: Record reflect all parties have  
17 returned following the recess.

18 MR. PETERS: Since these documents are going  
19 to obviously be admitted against OI, since they  
20 have no objection and I have no objection to the  
21 authenticity of the document --

22 THE COURT: Which one, 513 and 516?

23 MR. PETERS: 513 and 516, since I am not a  
24 co-conspirator I would object to them as

1 conspiracy as to the railroad.

2 THE COURT: Are they offered against the  
3 railroad?

4 MR. WALKER: They were, but I can't think of  
5 an exception to overcome his hearsay objection.

6 THE COURT: His objection will be allowed.  
7 Mr. O'Hara, do you have something?

8 MR. O'HARA: I was just going to give you a  
9 stack of documents that we were going to offer  
10 because you may find some of the documents that  
11 Mr. Walker is talking about now are going to be in  
12 this pile.

13 THE COURT: All right, thank you. Ready for  
14 the jury?

15 MR. WYLDER: We are.

16 THE COURT: Do we know how much longer Mr.  
17 Walker it's going to take?

18 MR. WALKER: About twenty minutes.

19 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE  
20 PRESENCE OF THE JURY.)

21 THE COURT: All right, you may be seated.  
22 Record reflect ladies and gentlemen of the jury  
23 have returned to the courtroom.

24 Mr. Walker, you may examine.

1           Q   Mr. Grimmie, do you recognize  
2   Owens-Illinois exhibit 515 as being a letter on  
3   Owens-Illinois stationery?

4           A   I recognize the stationery, yes, sir.

5           Q   And do you recognize the signature there  
6   at the bottom as that of Bill Hazard?

7           A   Well, the only way I would recognize it as  
8   Bill Hazard is I see W.C. Hazard here.

9           MR. WALKER:   Offer Owens-Illinois 515?

10          A   Yes, defendant's exhibit 515 --

11          MR. WALKER:   Just wait a minute, the Judge  
12   has got to go know --

13          MR. O'HARA:   Your Honor, no objection.

14          MR. CONSTANTINE:   Hearsay authentication as  
15   to Owens-Corning.

16          MR. PETERS:   Same objection as 515 and 516,  
17   Your Honor.

18          THE COURT:   Are you done with your offer?

19          MR. WALKER:   No, I would ask the court to  
20   take judicial notice of Owens-Illinois 419 which  
21   is in evidence and compare the signature with that  
22   on 515.

23          THE COURT:   All right.   Objection will be  
24   overruled as to Owens-Corning Fiberglas and



1 objection sustained as to Illinois Central  
2 Railroad.

3 MR. CONSTANTINE: As to which exhibit Your  
4 Honor?

5 THE COURT: 515.

6 MR. CONSTANTINE: Your Honor is taking  
7 judicial notice, is that --

8 MR. WALKER: I offer Owens-Illinois 516 into  
9 evidence which is a letter dated August 7th, 1951.

10 THE COURT: The objection of Owens-Corning --  
11 Owens-Illinois is not objecting.

12 MR. O'HARA: Right Your Honor.

13 THE COURT: Owens-Corning objection is  
14 sustained. Illinois Central?

15 MR. PETERS: Yeah, my objection has already  
16 been sustained Your Honor.

17 MR. WALKER: Could I have the Owens-Corning  
18 objection again Your Honor?

19 THE COURT: Authenticity and hearsay.

20 MR. WALKER: May I approach?

21 THE COURT: You may.

22 (THE FOLLOWING PROCEEDINGS WERE HAD AT THE  
23 BENCH OUT OF THE HEARING OF THE JURY.)

24 MR. WALKER: Plaintiffs' response to the

1       hearsay objection is that it is a statement by a  
2       co-conspirator in furtherance of the conspiracy  
3       and as to --

4               THE COURT: Are there specific sentences that  
5       you suggest are statements?

6               MR. WALKER: Well the best sentence in it is  
7       the last one. In view of the fact that we are not  
8       certain just what atmospheric concentrations of  
9       asbestos fibers is the limit of safety -- and as  
10      to authenticity, it is the letter written in  
11      response to 515. 515 just came into evidence.

12              THE COURT: All right, go ahead.

13              MR. CONSTANTINE: Your Honor, I want to set  
14      the record straight on my objection as to asking  
15      the court to take judicial notice of a signature,  
16      judicial notice to comparing signatures, the  
17      expertise is that of a handwriting expert. And  
18      when the court is asked to take judicial notice of  
19      a matter, those matters generally are so common to  
20      the public and there are rules relating to what  
21      the court is permitted to take judicial notice of.  
22      I'm not aware of a rule that allows the court to  
23      take judicial notice of handwriting and make a  
24      fact determination that the handwriting is the

1 same. So I object to 516 on the basis of the  
2 court's ruling -- I'm sorry, 515 if the basis was  
3 it appears to be that Your Honor compared the  
4 handwriting and made a factual determination that  
5 the two are the same. I object to those grounds.

6 As for 516, the fact that it was sent in  
7 response or sent back, that doesn't meet the  
8 authenticity rule. This gentleman is not the  
9 custodian of records.

10 I have been compelled to bring, show some  
11 proof by virtue of the custodian of records to  
12 authenticate documents. This man was not the  
13 custodian of records. Didn't write the letter,  
14 didn't send it, the letter is unsigned and I don't  
15 think the fact that Mr. Walker testifies that it's  
16 in response to another or -- that that makes it  
17 authentic. That simply is not the requirement.  
18 So I object on those grounds and I would -- just  
19 let me, it's my understanding that the court ruled  
20 and sustained Owens-Corning's objection. Now we  
21 are hearing Mr. Walker argue for Your Honor to  
22 reverse that ruling. I object to that as well.

23 MR. WALKER: As to Owens-Corning's motion to  
24 reconsider your ruling on 515, it's not by rule in

1 Illinois, it's by statute. The statute provides  
2 the authority for the court to make the comparison  
3 of signatures. As to 516, there is decisional law  
4 that says a letter appears on its face to be  
5 authentic and is clearly in response to another  
6 letter that is already properly into evidence can  
7 come into evidence for that reason. That is why  
8 we would ask you to consider 516 authentic.

9 THE COURT: The problem is with 516 is there  
10 is no evidence that it was received to my  
11 knowledge or that it was sent.

12 MR. WALKER: Well since this is a carbon  
13 copy, I would agree with the court. But there is  
14 at least a presumption they wouldn't type a letter  
15 without sending it. I admit it doesn't say  
16 received on it.

17 THE COURT: Well it doesn't say received and  
18 there is no other indicia of receipt like the  
19 Bates stamp that I'm aware of. It certainly -- I  
20 mean I think it's clear at this point that the  
21 court has admitted documents that were in  
22 possession of Owens-Illinois at that plant or were  
23 transferred to Owens-Corning.

24 MR. CONSTANTINE: That is not clear to me.

1       What are you basing that on Judge? That is just a  
2       fact that's been -- you excluded the testimony of  
3       Willis Hazard which is the only person in the  
4       world that can speak to that transfer.

5               THE COURT: I don't believe that is true.

6               MR. CONSTANTINE: Is there something else  
7       that the court is basing that finding of fact on?

8               THE COURT: There is a contract in evidence  
9       which indicates that if I recall correctly.

10              MR. WALKER: It's counsel's comments that  
11       Owens-Corning doesn't keep its contracts Judge,  
12       that is what he was basing it on.

13              MR. CONSTANTINE: Mr. Walker is probably  
14       right. He likes to make those little comments and  
15       I suspect that it burdens the record, but that is  
16       fine. The fact of the matter is Judge without  
17       proof of receipt --

18              THE COURT: All right, at this point I'm not  
19       going to admit Owens-Illinois 516 against OCF. I  
20       will against Owens-Illinois, but not against OCF  
21       or Illinois Central.

22              MR. CONSTANTINE: Will Your Honor indicate  
23       that to the jury?

24              THE COURT: Yeah.

1 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE  
2 PRESENCE OF THE JURY.)

3 THE COURT: I believe I indicated that  
4 Owens-Illinois exhibit 516 is admitted only with  
5 regard to Owens-Illinois.

6 BY MR. WALKER:

7 Q Mr. Grimmie, there is in evidence a  
8 document called Owens-Illinois 516 which as letter  
9 from Thomas Durkan to Bill Hazard dated August  
10 7th, 1951, and it says, in view of the fact that  
11 we are not certain just what atmospheric  
12 concentration of asbestos fibers is the limit of  
13 safety, it would be well to apply -- and the  
14 sentence goes on.

15 In 1951, what had you been told by  
16 Owens-Illinois was a level of airborne asbestos in  
17 which people could work safely?

18 MR. O'HARA: Your Honor, I would just object  
19 that we shouldn't read half sentences. We should  
20 at least finish off the sentence.

21 THE COURT: Sustained. Let's read the whole  
22 sentence.

23 MR. WALKER: Sure.

24 Q In a letter written by Thomas Durkan to

1 Bill Hazard on August 7th, 1951, Mr. Durkan says,  
2 "Nevertheless, in view of the fact that we are not  
3 certain just what atmospheric concentration of  
4 asbestos fibers is the limit of safety, it would  
5 be well to apply the protective measures suggested  
6 in the report including the wearing of a  
7 respirator and if possible some method of reducing  
8 the amount of atmospheric dust."

9 My question to you Mr. Grimmie is, in August  
10 of 1951, what had Owens-Illinois told you was the  
11 safe level of airborne asbestos in which people  
12 could work without becoming ill?

13 A I have no recollection of that sir.

14 Q Did Owens-Illinois tell you that there was  
15 a -- an amount above zero of airborne asbestos in  
16 which people could work and none of them become  
17 ill?

18 A I have no recollection.

19 Q Do you have in front of you Owens-Illinois  
20 exhibit 419?

21 A Yes, sir.

22 Q Now this is already in evidence. It says,  
23 it is a letter from Hazard to Arthur Vorwald at  
24 Saranac. "Dear Art. Some time ago we mentioned

1 to you that our Kaylo division wants to gather  
2 together in brochure form material on the health  
3 aspects of Kaylo dust and wants to consider the  
4 possibility of publishing some of your  
5 experimental findings."

6 Do you see that first paragraph there?

7 A Yes, sir.

8 Q Now, did you ever see a brochure that the  
9 Kaylo division of Owens-Illinois prepared  
10 regarding the health aspects of Kaylo dust?

11 A I have no recollection.

12 Q Do you have a present recollection that  
13 you ever saw a brochure on the health aspects of  
14 Kaylo dust?

15 A No, I don't.

16 Q And you worked in Kaylo dust from 1947 to  
17 at least 1972, Kaylo dust that had -- let me ask a  
18 different question. You worked in the dust of  
19 asbestos-containing Kaylo from at least 1947 into  
20 1972. Is that correct?

21 A Yes, approximately.

22 MR. WALKER: Someone else may ask.

23 THE COURT: Mr. Constantine, do you have any  
24 questions?



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CROSS EXAMINATION

BY MR. CONSTANTINE:

Q Good afternoon, Mr. Grimmie.

A Good afternoon, sir.

Q Mr. Grimmie, my name is Andrew  
Constantine, I represent Owens-Corning Fiberglas.

A How do you do?

Q How do you do? Have we ever met before  
today?

A Not to my knowledge.

Q And have I ever asked you to come into a  
courtroom and testify as you're doing here today?

A No, sir.

Q Okay. And the questions I'm about to ask,  
do you have any idea what they are?

A No, sir.

Q You testified on direct examination or in  
response to Mr. O'Hara's questions that when you  
came to work for Owens-Illinois as an hourly  
employee, you sat down with a nurse and a nurse  
explained to you the necessity of using a  
respirator for the diseases silicosis and  
asbestosis. Do you recall that?

A Yes, sir.

1 MR. WALKER: Leading.

2 MR. CONSTANTINE: This is cross, Judge.

3 THE COURT: Overruled.

4 Q Now, were you the only hourly employee  
5 that had to sit down with that nurse or did other  
6 hourly employees have to sit down?

7 A No, everyone that was hired went through  
8 the same procedure.

9 Q Every single person that was hired by  
10 Owens-Illinois as far as you know had to sit down  
11 with that nurse and get that training, is that --

12 A Yes, sir, that is my understanding.

13 Q Now when Owens-Illinois -- after  
14 Owens-Illinois sold the plant and the product line  
15 to Owens-Corning, you stayed on and became an  
16 employee of Owens-Corning. Correct?

17 A Yes, sir.

18 Q Now the day that that happened, in 1958,  
19 all those people that had worked for  
20 Owens-Illinois, did Owens-Corning fire them or did  
21 they become Owens-Corning employees too?

22 A They became Owens-Corning employees.

23 Q Okay. And I think you mentioned that in  
24 1965, one of the plant supervisors over his

1 signature put one of Dr. Selikoff's articles on  
2 the bulletin board or on all five bulletin boards  
3 at the Berlin plant. Correct?

4 A I believe so, yes.

5 Q And if that happened in 1965, that would  
6 have occurred during a time period that you were  
7 working for Owens-Corning. Correct?

8 A Yes.

9 Q And then I -- now, after people sat down  
10 with the nurse and was told about wearing a  
11 respirator for silicosis and asbestosis, did you  
12 ever see any of those workers after being told  
13 that not wearing respirators?

14 A Yes, sir.

15 Q This doctor -- then I think you said Dr.  
16 McNally talked about asbestos and asbestosis with  
17 you?

18 A Yes.

19 Q Another -- there were meetings with  
20 department heads?

21 A Yes.

22 Q Do you recall that? Was asbestos and  
23 asbestosis ever discussed at those meetings?

24 A Yes, the plant manager had meetings.

1 Q When you were working for Owens-Illinois  
2 or Owens-Corning Fiberglas, was asbestos and  
3 asbestosis a secret?

4 A Never.

5 Q Well, if somebody were to suggest that  
6 Owens-Corning and Owens-Illinois were conspiring  
7 to keep from people like you who worked in the  
8 plant information about asbestos and asbestosis,  
9 what would you say to that?

10 A I would say that was ridiculous.

11 Q This Dr. Sokolowski -- and you were there  
12 since what time with Owens-Illinois? I'm sorry,  
13 you started with OI when?

14 A With OI?

15 Q In the forties?

16 A In '47.

17 Q And you were with Owens-Corning until the  
18 day you retired?

19 A Yes, sir.

20 Q In, what, '84 it was I think?

21 A '84.

22 Q Okay. Now this Dr. Sokolowski, was that a  
23 doctor that just management people went to or did  
24 everybody go to?

1 A Everyone.

2 Q So there wasn't some special doctor that  
3 management went to and the other people that  
4 worked hard in the plant just like you, they went  
5 to some other doctor. It wasn't like that,  
6 correct?

7 A Everyone on workers' comp with asbestosis  
8 goes to Dr. Sokolowski. We even have one guy  
9 comes up from Florida to go to Dr. Sokolowski.

10 MR. CONSTANTINE: Thank you, Mr. Grimmie.

11 THE WITNESS: Yes, sir.

12 THE COURT: Illinois Central?

13 MR. PETERS: No questions Your Honor.

14 THE COURT: Owens-Illinois? Mr. O'Hara?

15 REDIRECT EXAMINATION

16 BY MR. O'HARA:

17 Q Hello Mr. Grimmie. I think you testified  
18 a little bit earlier today about the fact that you  
19 spent some time at Owens-Illinois as an hourly  
20 employee?

21 A Yes, sir.

22 Q Do you remember about how many years you  
23 spent at Owens-Illinois as an hourly employee?

24 A Um, I would say about four.

1           Q   You gave some testimony about physical  
2           examinations you had at the University of  
3           Pennsylvania. Do you remember that?

4           A   Yes.

5           Q   Were those --

6           A   That is University of Pennsylvania Medical  
7           Center.

8           Q   Were those examinations during the time  
9           you were with Owens-Illinois or were they at the  
10          time when you were with Owens-Corning Fiberglas?

11          A   I believe they were Owens-Corning  
12          Fiberglas.

13          Q   Mr. Walker asked you some questions about  
14          whether there was any warning on the Kaylo boxes  
15          when you were at Owens-Illinois. Did Bill Hazard  
16          ever tell you that he thought that Kaylo was  
17          dangerous for people who were going to use it in  
18          the field?

19          A   Not to my recollection.

20          Q   Mr. Walker showed you a document which was  
21          plaintiffs' exhibit 282. Do you think you could  
22          find that, Mr. Grimmie? Do you still have that  
23          one? I think that was the longer one.

24          A   Yes, I have it.

1           Q Can you turn to the last page of that  
2 document, the page that has the signature? Can  
3 you find that?

4           A Recommendations?

5           Q Is that the --

6           MR. O'HARA: Your Honor, may I go next to the  
7 witness please?

8           THE COURT: You may.

9           A I'm sorry.

10          Q Do you see Mr. Grimmie that there is a  
11 reference in that document, do you see in the  
12 second sentence to the fact that the Aetna people  
13 found some things that did not come up to  
14 Owens-Illinois standards? Do you see that? The  
15 second sentence on that page?

16          A Yes, I see that.

17          Q Okay. Did Owens-Illinois when you were at  
18 Owens-Illinois, did they have standards that  
19 related to dust control and to respirator programs  
20 and to monitoring employee health?

21          A Yes.

22          Q Mr. Walker asked you whether -- whether  
23 you learned today for the first time that the  
24 Saranac experiments involved animals that

1 developed asbestosis. Correct?

2 A Yes, sir.

3 Q Did you learn on the first day of work at  
4 Owens-Illinois from the plant nurse that the Kaylo  
5 dust might cause asbestosis in people?

6 A Asbestosis was, I thought, I interpreted  
7 at the time to be secondary to silicosis.

8 Q Okay.

9 A And then shortly after that, asbestosis  
10 became --

11 Q Separate?

12 A Yeah, it became the big problem.

13 Q So -- but in any event, based on your  
14 conversations with the plant nurse, you understood  
15 that there was risks of asbestosis from the Kaylo  
16 dust that was being used?

17 A Yes.

18 MR. WALKER: Leading.

19 THE COURT: Sustained.

20 Q Did you have any notion about whether  
21 Kaylo dust used in the Owens-Illinois plants  
22 created a potential hazard for people based on  
23 your conversations with the plant nurse?

24 A Yes.



1           Q   You talked -- you mentioned in one of your  
2   responses to Mr. Walker about the notion of trust.  
3   Did you trust Bill Hazard with your health when  
4   you worked at Owens-Illinois?

5           A   Absolutely.

6           Q   If he were alive today, would you trust  
7   him with your health?

8           A   Absolutely.

9           MR. O'HARA:  Absolutely.

10          THE COURT:  Plaintiff?

11                       RECROSS EXAMINATION

12          BY MR. WALKER:

13           Q   About four weeks ago Mr. Grimmie,  
14   Owens-Illinois told the jury that Bill Hazard went  
15   to Saranac Lake in 1952 and heard a whole bunch of  
16   speeches about asbestos being a cause of cancer.  
17   Now we know only thing that Owens-Illinois would  
18   tell the jury -- excuse me, that Owens-Illinois  
19   would tell the jury is the truth.

20           What did Bill Hazard tell you when he got  
21   back from Saranac Lake that he had learned about  
22   asbestos being a cause of cancer in 1952?

23           A   Sir --

24          MR. O'HARA:  Your Honor, wait, I have an

1 objection. I don't know to what Mr. Walker is  
2 referring but I have never said anything like that  
3 in front of this jury.

4 MR. WALKER: I did misspeak, I said --  
5 Owens-Corning said it in opening statement.

6 MR. CONSTANTINE: Oh, well then I heard  
7 Owens-Illinois, so I guess I have an objection.

8 MR. WALKER: Let me ask the question again  
9 please, I butchered it.

10 MR. CONSTANTINE: Can we have that stricken  
11 from the record then, Mr. Walker's --

12 THE COURT: Question is stricken from the  
13 record, jury instructed to disregard the question.

14 Q In opening statement Owens-Illinois -- in  
15 opening statement Owens-Corning said, in 1952, as  
16 well you heard about the Seventh Saranac Symposium  
17 you heard about how one of the principle subjects  
18 was -- discussed was asbestos and cancer. Let me  
19 give you the lineup of the people that were there,  
20 because a suggestion has been made that  
21 information about asbestos and disease and  
22 asbestos and cancer was suppressed or  
23 misrepresented. Well, one of the main topics at  
24 this particular symposium was asbestos and cancer.

1           When Bill Hazard got back from that 1972  
2           symposium at Saranac Lake where asbestos and  
3           cancer was discussed --

4           THE COURT: '72?

5           MR. WALKER: Did I say 72? I'm sorry.

6           Q   When Bill Hazard got back from that 1952  
7           symposium at Saranac Lake where asbestos and  
8           cancer was discussed, what did he tell you he  
9           learned at that symposium?

10          MR. O'HARA: Your Honor I object to Mr.  
11          Wylder's (sic) question.

12          THE COURT: Overruled.

13          A   Sir, please understand, Bill Hazard was  
14          Toledo staff. He would contact the plant manager.  
15          He wouldn't come to me to tell me anything. He  
16          would go to the plant manager. Any report that he  
17          had would go to the plant manager. So I have no  
18          recollection of what was reported from this  
19          1952 --

20          Q   Well Bill Hazard never talked to you about  
21          asbestos and cancer. Is that correct?

22          A   Oh, Bill and I had discussions, yes.

23          Q   Did you and Bill discuss the relationship  
24          between asbestos and cancer?

1           A   Um, after 1965 when Dr. Selikoff I believe  
2           it was at Mount Sinai who proved to the medical  
3           profession that asbestos could cause lung cancer,  
4           then we started talking and acting on it.

5           Q   But the first time that Bill Hazard talked  
6           to you about asbestos being a cause of cancer was  
7           after you had seen Selikoff's article in 1965.  
8           Correct?

9           A   To the best of my recollection.

10          MR. WALKER:   Offer plaintiffs' exhibit 520.  
11          And 519.

12          THE COURT:   Any objection to 519 and 520?

13          MR. CONSTANTINE:   Hearsay and authentication  
14          as to Owens-Corning, Your Honor.

15          THE COURT:   Owens-Illinois?

16          MR. O'HARA:   Your Honor, I have no objection  
17          to 519.   I do object to 520 as hearsay.

18          MR. WALKER:   Well Judge, once you have 519  
19          in, 520 comes in because 519 shows that Hazard was  
20          there.   The sixth sheet of paper.   The eighth  
21          signature from the bottom.

22          THE COURT:   The objection of Owens-Illinois  
23          to 520 is overruled.   Owens-Illinois -- both 519  
24          and 520 will be admitted with regard to

1 Owens-Illinois.

2 Do you want to speak to Owens-Corning? I

3 will overrule those objections with regard to

4 Owens-Illinois.

5 MR. CONSTANTINE: I'm sorry, did Your Honor  
6 rule?

7 THE COURT: I have not. Asked Mr. Walker if  
8 he had any response to hearsay and authentication  
9 with regards to Owens-Corning.

10 MR. WALKER: If it is authentic Your Honor --

11 THE COURT: Counsel approach the bench.

12 (THE FOLLOWING PROCEEDINGS WERE HAD AT THE  
13 BENCH OUT OF THE HEARING OF THE JURY.)

14 MR. WALKER: If it's authentic, it has to  
15 come in because Owens-Corning talked about it in  
16 opening statement. It was Owens-Corning who said  
17 that this conference did take place and that  
18 everybody knew as a result of this conference.  
19 Here is the agenda for the conference that took  
20 place, so this would be notice to Owens-Corning.  
21 They have admitted whatever notice is created by  
22 this.

23 MR. CONSTANTINE: I don't know how an opening  
24 statement, I wish my opening statements could

1       authenticate documents because if they could I  
2       would line all the ones up that Mr. Walker has  
3       erroneously objected to --

4               THE COURT: It might against you, but it  
5       won't help you.

6               MR. CONSTANTINE: An opening statement by a  
7       lawyer doesn't authenticate documents in any state  
8       that I'm aware of and I don't think it  
9       authenticates them here, and I object on that  
10      basis as to hearsay authentication.

11              MR. WALKER: I was just talking about hearsay  
12      Judge. If there is an objection about  
13      authentication I will have to take the stand  
14      myself because we got this document from  
15      Owens-Corning.

16              MR. CONSTANTINE: That doesn't authenticate  
17      anything. Mr. Walker can get on the stand and say  
18      he got letters from Abex and Owens-Corning.  
19      Unless he's the custodian of the records over at  
20      Saranac he can't testify as to authenticity, and I  
21      object.

22              MR. WALKER: All we are doing now is hearsay.  
23      When Owens-Corning says in opening statement that  
24      there was this symposium, asbestos and cancer was

1 discussed, it makes what is discussed their  
2 knowledge to Owens-Corning and therefore all of  
3 this other is made out of court, it's admissible  
4 against Owens-Corning because it shows what  
5 Owens-Corning knows.

6 THE COURT: The court will sustain the  
7 objection with regard to Owens-Corning.

8 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE  
9 PRESENCE OF THE JURY.)

10 THE COURT: The court will sustain the  
11 objections with regard to Owens-Corning.

12 BY MR. WALKER:

13 Q Would you turn Mr. Grimmie to the eighth  
14 page, the one that has the agenda for Wednesday,  
15 September 24th?

16 A Yes, sir, Wednesday, September 24th.

17 Q When you had that discussion with Bill  
18 Hazard in 1965 about the relationship between  
19 asbestos and cancer, did he reflect upon the fact  
20 that he had heard Dr. Hueper discuss on this  
21 subject back in 1952?

22 A I have no recollection.

23 Q Did he discuss that he heard Dr. Cartier  
24 reflect -- did he reflect that he had heard Dr.

1 Cartier discuss this subject back in 1952?

2 A I have no recollection.

3 Q Did he say well I heard Dr. Kenneth Lynch  
4 talk about this in September of 1952 at the  
5 Seventh Saranac Symposium?

6 A I have no recollection. As I suggested to  
7 you, Bill Hazard was Toledo staff and he would  
8 tell our plant manager.

9 Q And when you had this discussion with Mr.  
10 Hazard in 1965, did he say I heard from -- of all  
11 people Dr. Merewether himself back in 1952 at the  
12 Seventh Saranac Symposium lead the discussion  
13 following the Hueper Cartier and Lynch  
14 presentations?

15 A I have no recollection of that.

16 Q The jury has seen exhibit 65 in which  
17 Saranac Laboratory told Owens-Corning in February  
18 of 1956 that asbestos was fairly well incriminated  
19 as a carcinogen.

20 Did Owens-Corning tell you that as soon as it  
21 bought the plant in 1958, that asbestos had been  
22 incriminated as a carcinogen?

23 A Owens-Corning?

24 Q Yes, sir.



1           A I don't know how it was related, but -- I  
2           don't know how to answer that. Owens-Corning was  
3           related to our plant long before 1958.

4           Q But it became your employer in 1958.  
5           Correct?

6           A Yes.

7           Q I can appreciate there was some  
8           Owens-Corning people that visited the plant  
9           between '53 and '58 probably, correct?

10          A Management.

11          Q But once Owens-Corning bought the plant  
12          and assumed the responsibilities that it had as  
13          your employer, did it promptly come up to you and  
14          say, Mr. Grimmie, I want you to know that as long  
15          ago as two years ago we were told that asbestos  
16          has been fairly well incriminated as a carcinogen?

17          A I have no recollection of that.

18          Q You said that Dr. Sokolowski gives these  
19          examinations to everyone that has asbestosis. How  
20          many fellows that worked at the Berlin plant are  
21          alive today and have asbestosis?

22          A I don't know.

23          Q Has the doctor ever shared with you how  
24          many people there are?

1           A   He would not do that, that is doctor/  
2   patient privilege.

3           Q   How many are sick is privileged?

4           A   I meet two or three occasionally when I am  
5   in there, but I haven't the slightest idea how  
6   many.

7           Q   How about Owens-Corning? Has  
8   Owens-Corning told you how many are currently  
9   living and have asbestosis?

10          A   No.

11          Q   Has Owens-Corning told you how many of the  
12   group of people that worked for Owens-Illinois and  
13   Owens-Corning at Berlin have contracted lung  
14   cancer?

15          A   No.

16          Q   Has Owens-Corning told you how many of the  
17   people who worked at Berlin for either  
18   Owens-Illinois or Owens-Corning have contracted  
19   mesothelioma?

20          A   No, sir.

21          MR. WALKER: Thank you, Mr. Grimmie.

22          THE WITNESS: Thank you sir.

23          THE COURT: Mr. Constantine?

24          MR. CONSTANTINE: I have no questions. Thank

1       you Mr. Grimmie.

2               MR. PETERS:   None.

3               THE COURT:   Mr. Peters?

4               MR. O'HARA:   No Your Honor.

5               THE COURT:   All right Mr. Grimmie, thank you.

6       You can step down.   Thank you for your time today.

7       Have a nice day.

8               (WITNESS EXCUSED.)

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IN THE CIRCUIT COURT  
OF THE ELEVENTH JUDICIAL CIRCUIT  
MC LEAN COUNTY, ILLINOIS

Dated: November 30, 1996